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UNLASTED LEATHER FOOTWEAR UPPERS FROM INDIA

Determination of No Material Injury or Threat Thereof in Investigation No. 701-TA-1 (Final) Under Section 705(b) of the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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II

CONTENTS

	Page
Determination	1
Statement of reasons of Chairman Catherine Bedell and Commissioners George M. Moore and Paula Stern	3
Statement of reasons of Vice Chairman Bill Alberger and Commissioner Michael J. Calhoun	11
INFORMATION OBTAINED IN THE INVESTIGATION:	
Introduction	A-1
The product:	
Description and uses and manufacturing process	A-2
U.S. tariff treatment	A-3
The nature and extent of bounties or grants	A-7
Treasury's finding	A-7
Share of exports to the United States subject to the subsidy determination	A-7
Range and weighted average of the bounties or grants as a percent of the export value of the subject merchandise	A-7
Preferential export financing	A-7
Income tax deduction for overseas expenses	A-7
Cash rebates on exports	A-7
The U.S. producers	A-8
The foreign industry and capacity of the foreign industry to generate exports	A-9
U.S. importers	A-10
The U.S. market and channels of distribution	A-12
Consideration of injury to U.S. industry:	
U.S. production	A-13
Capacity or utilization of capacity and effect of imports on growth of the U.S. industry	A-13
U.S. producers' shipments and exports	A-14
Inventories	A-14
U.S. imports:	
Significance of the volume of imports or any increase in that volume	A-15
Effect of imports on U.S. producers	A-16
Rate of increase of subsidized exports to the United States and the availability of other export markets	A-18
U.S. consumption	A-18
Employment	A-19
Financial experience of U.S. producers	A-20
Research and development and capital expenditures	A-22
Consideration of the causal relationship between subsidized imports and the alleged injury:	
Market share and market penetration	A-22
Price comparisons:	
Effect of imports on prices in the United States and other factors affecting domestic prices	A-22

CONTENTS

Page

Price undercutting by the imported merchandise compared with the price of like products in the United States------- A-23
Consideration of whether the imported merchandise depresses prices or prevents price increases------- A-24
Loss of sales------- A-24
Appendix A. Letter from Treasury Department------- A-25
Appendix B. Tariff classification--lasted leather footwear uppers as published in the Federal Register------- A-27
Appendix C. Notices of Investigation and Hearing------- A-31
Appendix D. Treasury Department's notices of preliminary countervailing duty determination and final countervailing duty determination as published in the Federal Register------- A-41
Appendix E. U.S. International Trade Commission investigations concerning footwear------- A-47

Tables

1. Indian unlasted leather footwear uppers: U.S. imports for consumption, by firms, 1977, 1978, January October 1978, and January-October 1979------- A-11
2. Nonrubber footwear: Total domestic shipments manufactured with imported uppers, by types, 1977 and 1978------- A-12
3. Nonrubber footwear: Yearend inventories of U.S. producers, by types, 1977 and 1978------- A-15
4. Unlasted leather footwear uppers: U.S. imports for consumption, 1977, 1978, and 1979------- A-17
5. Unlasted leather footwear uppers: U.S. producers' shipments, imports, and apparent consumption, 1977-79------- A-19
6. Profit-and-loss experience of 140 U.S. producers of nonrubber footwear on their manufacturing operations, by ranges of production, accounting years 1977 and 1978------- A-21
7. Nonrubber footwear: U.S. producers' capital and research and development expenditures, 1977 and 1978------- A-22

Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 701-TA-1 (Final)

UNLASTED LEATHER FOOTWEAR UPPERS FROM INDIA

Determination

On the basis of the record 1/ in investigation No. 701-TA-1 (Final), the Commission unanimously determined, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is not materially injured, or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of the importation of unlasted leather footwear uppers (provided for in item 791.27 of the Tariff Schedules of the United States) from India upon which the Department of the Treasury determined a bounty or grant of 1.01 percent ad valorem is being paid by the Government of India.

Background

The Commission received advice from Treasury on October 24, 1979, regarding the bounty or grant on unlasted leather footwear uppers and thereafter instituted an investigation (No. 303-TA-11) under section 303 of the Tariff Act of 1930. Because that investigation had not been completed at the time the new countervailing duty provisions became effective (Jan. 1, 1980), the investigation was terminated and reinstituted as investigation No. 701-TA-1 (Final) pursuant to section 102 of the Trade Agreements Act of 1979.

Notice of the termination of the earlier investigation and institution of the new investigation and of the public hearing to be held in connection

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1/ The "record" is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

therewith was duly given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of January 17, 1980 (45 F.R. 3402). The hearing was held in Washington, D.C., on February 4, 1980; all persons requesting the opportunity were permitted to appear in person or by counsel.

Statement of Reasons of
Chairman Catherine Bedell and
Commissioners George M. Moore and Paula Stern

On the basis of the record developed in this investigation, we determine, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of unlasted leather footwear uppers 1/ from India with respect to which the U.S. Treasury Department has found that a subsidy is being provided.

The domestic industry

In this investigation we have concluded that the appropriate domestic industry against which the impact of the subsidized imports from India should be measured consists of the facilities in the United States producing nonrubber footwear. There are approximately 350 domestic producers of nonrubber footwear. 2/ There is no known trade in domestically produced unlasted leather footwear uppers; 3/ it appears that virtually all such uppers are manufactured by domestic producers of nonrubber footwear and are captively consumed by those producers in the production of finished nonrubber footwear. 4/ Domestic producers of nonrubber footwear do not maintain separate profit- and-loss, employment, and other key data on the shoe upper

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1/ Specifically, uppers of leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, provided for in item 791.27 of the Tariff Schedules of the United States.
2/ See attached Commission report, at p. A-8 (hereinafter report).
3/ Report, at pp. A-8-9.
4/ Id., at pp. A-8, A-13, A-16.

segment of their footwear production. 5/ Thus, there is insufficient data to permit us to identify separately domestic production of such uppers in terms of the statutory criteria.

Our finding concerning the composition of the appropriate domestic industry is based on section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)). Section 771(4)(A) defines the term "industry" to mean the domestic producers of a "like product", and section 771(10) defines the term "like product" to mean "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Section 771(4)(D) further provides that "If the domestic production of the like product has no separate identity in terms of [the statutory] criteria, then the effect of the subsidized . . . imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided."

U.S. producers of nonrubber footwear are the importers and/or consumers of all the imported Indian uppers. 6/ Section 771(4)(B) of the Tariff Act provides that the Commission may exclude from the industry producers related to the exporters or importers or producers which are themselves importers of the subsidized merchandise. However, because the domestic importers and consumers of the Indian uppers are among the largest producers of the types of footwear incorporating the Indian and like domestically produced uppers,

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5/ See the report, particularly at pp. A-19-22.
6/ Report, at p. A-10.

exclusion from the industry of such firms would have the effect of excluding the more important producers of footwear incorporating this type of upper. It is therefore not appropriate to exclude such firms from the scope of the domestic industry in this case.

The subsidy

The Department of the Treasury found aggregate benefits on leather uppers in the amount of 1.01 percent ad valorem. The benefits were in the form of cash rebates, preferential export financing, and income tax exemptions. 7/

The question of injury 8/

We have found that domestic nonrubber footwear producers are not materially injured or threatened with material injury by reason of the 1.01 percent ad valorem Indian subsidy on leather uppers.

Imports of unlasted leather footwear uppers from India have increased considerably in recent years but remain insignificant when measured against estimated U.S. production and consumption of like uppers. Imports of such Indian shoe uppers increased from 340,000 pairs in 1977 to 630,000 pairs in 1978 and to 765,000 pairs in January-October 1979, but never accounted for as much as 0.5 percent of U.S. upper consumption during that period. 9/

7/ Id., at pp. A-7-8.

8/ Because there is an established domestic industry in this case, the issue of material retardation of the establishment of an industry is not before us. Commissioner Stern refers readers to her additional views on the state of the domestic industry which form part of the basis for her determination in this investigation.

9/ Report, at pp. A-11, A-18-19. Domestic production of unlasted leather footwear uppers, although unknown, approximates domestic production of leather because all leather footwear contains leather uppers and because imports and exports of such uppers are relatively small in comparison with leather footwear production. The United States produced about 226 million pairs of leather footwear in 1978 and about 212 million pairs in 1979. See the report, at p. A-13.

There is little, if any, known trade in shoe uppers among U.S. producers since they use the uppers in their own production of nonrubber footwear. Thus, there are apparently no arm's-length sales of domestically produced uppers which would show price trends or indicate import-related price depression or suppression. Arm's-length sales occur only after the footwear is in finished form. Nevertheless, the impact of a subsidy of 1.01 percent ad valorem on the price of finished nonrubber footwear is inconsequential. The total value of all shoe upper imports from India was $3.1 million in 1978 and $5.5 million in 1979. 10/ Sales of finished footwear by U.S. nonrubbber footwear producers exceeded $3 billion in 1978, the last full year for which such data were available. 11/ If the Indian subsidies had any effect on U.S. nonrubber footwear prices, it was to make them more competitive with prices of imported footwear, since it is U.S. nonrubber footwear producers which purchase the Indian shoe uppers.

It was also difficult to assess the impact of the imports from India on U.S. producers of the like product. As noted above, U.S. producers of the like product, which are also producers of finished nonrubber footwear, are the importers and/or consumers of the imported Indian shoe uppers. The bulk of the Indian shoe uppers are intended for use in men's moccasin-style footwear, and the importing/consuming firms are domestic producers of finished footwear of that type. 12/ It is doubtful whether such firms would continue to import such shoe uppers if they found them to be injurious.

10/ Report, at p. A-17.
11/ Id., at p. A-21.
12/ Id., at p. A-16.

Conclusion

We therefore conclude that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of unlasted leather footwear uppers from India which the U.S. Treasury Department has found are being subsidized.

Additional Views of Commissioner Paula Stern

The state of the domestic industry

The Commission considered a wide variety of economic indicators, some of which indicated problems. Sec. 771(7)(C) of the Tariff Act of 1930 requires the Commission to examine material injury by evaluating "all relevant economic factors . . . including, but not limited to . . ." output, sales, market share, profits, productivity, return on investments, capacity utilization, factors affecting domestic prices, cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

U.S. output (production) of both leather and nonrubber footwear (the latter includes leather footwear) have both declined in recent years. Domestic leather footwear production was 226.7 million pairs in 1977, 226.3 million pairs in 1978, and 212.2 million pairs in 1979. Domestic nonrubber footwear production was 413.7 million pairs in 1977, 418.9 million pairs in 1978, and 381.4 million pairs in 1979. 1/ Imports of Indian uppers, which were consumed in the production of such footwear and are thus indirectly

1/ Report, at p. A-13.

reflected in the domestic leather and nonrubber footwear production statistics, never accounted for as much as 0.5 percent of the uppers used in the production of such footwear and there is no indication that they were a factor in the decline in such production. Because nonrubber footwear inventories have been relatively stable, 2/ I believe trends in domestic nonrubber footwear sales have paralleled trends in domestic nonrubber footwear production in recent years.

Data available to the Commission show that the ratio of net operating profit to net sales for producers of nonrubber footwear increased from 4.4 percent to 5.0 percent between 1977 and 1978, the last year for which data were available. 3/ Capacity utilization by nonrubber footwear producers declined irregularly during the period 1977-1979, from 75.0 percent to 73.3 percent. 4/ Domestic nonrubber footwear inventories increased from 36.1 million pairs in 1977 to 40.0 million pairs in 1978, the last year for which such data were available. 5/ Employment in the domestic nonrubber footwear industry declined from 159,900 workers in 1977 to 157,800 in 1978, to 148,900 in 1979. 6/ Capital expenditures for new plant and equipment in the nonrubber footwear industry increased from $51 million in 1977 to $63 million in 1978, the last year for which such data were available. 7/ There were no data available concerning industry productivity, return on investment, cash flow, wages, growth, and ability to raise capital. The absence of any factor which

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2/ Id., at p. A-14.
3/ Id., at pp. A-20-21.
4/ Id., at p. A-13.
5/ Id., at p. A-14.
6/ Id., at p. A-19.
7/ Id., at p. A-22.

the Commission is required to evaluate does not give decisive guidance concerning the Commission's determination with respect to material injury. See sec. 771(7)(e)(ii) of the Tariff Act. I did not find the absence of these data decisive.

Despite some of these negative indications, there is no information that leads me to believe that any of the negative economic indices in this case are related to the 1.01 percent ad valorem Indian subsidy which Treasury found.

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VIEWS OF COMMISSIONERS ALBERGER AND CALHOUN

In order for the Commission to reach an affirmative determination in this investigation, pursuant to Section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), it is necessary to find that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded by reason of imports of unlasted leather footwear uppers[1/] from India with respect to which the Department of the Treasury has found a subsidy is being provided.[2/]

Discussion

In this investigation, we have concluded that the appropriate domestic industry against which the impact of subsidized Indian imports should be measured is the nonrubber footwear industry as a whole. The record developed in this investigation establishes a clear basis for such a conclusion.

Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)) provides, in part, as follows:

> "(A) In General.--The term 'industry' means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."

1/ Specifically, uppers of leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, provided for in item 791.27 of the Tariff Schedules of the United States. (19 U.S.C. 1202)

2/ The Department of the Treasury found aggregate benefits on leather uppers in the amount of 1.01 percent ad valorem. These benefits were in the form of cash rebates, preferential export financing and income tax exemptions. See Commission Report at pp. A-44-46 (hereinafter Report).

> "(D) Product Lines.--The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided."

Section 771(10) (19 U.S.C. 1677(10)) provides that:

> "The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

While the record reveals that there is production in this country of unlasted leather uppers used in the manufacture of nonrubber footwear, there can be little question that, in this case, the like product contemplated under Section 771(4)(D) is domestically produced unlasted leather uppers. But the record also reveals that virtually all domestically produced unlasted leather uppers are manufactured by domestic producers of nonrubber footwear for captive consumption in their manufacture of finished nonrubber footwear. Moreover, there is no known commerce involving domestically produced uppers, nor are there separate profit and loss, employment, or other key data maintained on the shoe upper aspect of domestic footwear production.

Consequently, since we are unable to assess the effect of subsidized Indian imports in relation to the domestically produced like product, we must look to the "narrowest group or range of products, which includes a

like product, for which the necessary information can be provided."[1/] In this case, the narrowest range of products is nonrubber footwear and we have concluded that domestic nonrubber footwear producers are not materially injured nor are they threatened with material injury by reason of subsidized imports of leather uppers from India. Because there is an established domestic nonrubber footwear industry, the question of material retardation of the establishment of an industry is not at issue.

The record of this investigation establishes a sound basis for this conclusion. Various footwear products have been considered by this Commission in recent years.[2/] Some of these investigations have resulted in findings of injury to the domestic industry. This particular investigation is somewhat unique, however, with all importers being domestic producers of nonrubber footwear, including component parts. While the importation of component parts can lead to savings in labor and production costs, it does not necessarily mean layoffs by a particular company. Here, we have found no evidence of employment lost due to imports of leather uppers from India. The domestic production of the end product, nonrubber footwear, may arguably be increased by the importation of uppers. The end product is produced at a cost savings and becomes more competitive with imported footwear.

1/ Section 771(4)(A) and (D), Tariff Act of 1930, (19 U.S.C. 1677(4)(A) and (D)).

2/ Report at Appendix E, pp. A-48-50.

Although imports of unlasted leather uppers from India have increased considerably in recent years, the effect on the domestic industry has been inconsequential in light of the comparison between the volume of imports and the level of domestic production. The four-tenths of one percent share of the United States market controlled by these Indian imports is very small. Furthermore, the impact of the 1.01 percent ad valorem Indian subsidy on production costs of nonrubber footwear is also small. And finally, although the nonrubber footwear industry experienced a decline in capacity utilization and employment, coupled with an increase in inventories over the period of the Commission investigation, there is no information on the record which adequately relates these negative trends to the increase in Indian imports of unlasted uppers.

In view of these considerations, particularly in combining the low level of market penetration and the low level of the subsidy, the fact of material injury by reason of these subsidized imports cannot be established.

Findings of Fact

The conclusion that domestic producers of nonrubber footwear are not materially injured or threatened with material injury by reason of the 1.01 percent Indian subsidy on leather uppers is based on consideration of the economic factors required by Section 771(7) of the Tariff Act of 1930 (19 U.S.C. 1677(7)). Our findings of fact are:

A. Volume of imports

1. Total U.S. imports of unlasted leather footwear uppers increased from about 1 million pairs in 1977 to 9.4 million pairs in 1978 and to 9.5 million pairs in 1979. (Report at A-15)

2. In 1979, imports of leather uppers from India increased more than 9 times the amount imported in 1977. During 1979, India was the fifth largest supplier of leather uppers and accounted for 7 percent of total imports. (Report at A-16, 17 (Table 4)) Imports of such shoe uppers increased from 340,000 pairs in 1977 to 630,000 pairs in 1978 to 765,000 pairs in the first 10 months of 1979, but never accounted for as much as one-half of one percent of U.S. upper consumption during that period. (Report at A-11, A-18, A-19)

B. Effect of imports on United States prices

3. No firm could be found in the United States which manufactures and sells unlasted leather uppers for third party use. Therefore, no price comparisons can be made on unlasted leather footwear uppers. Leather uppers are supplied primarily by domestic shoe manufacturers for their own use with the remainder of the need for this item being supplied exclusively by imports. (Report at A-22, 23)

4. A confidential 1979 cost-of-production comparison on a pair of men's moccasin-style shoes made from Indian and United States unlasted leather shoe uppers revealed that shoes made with Indian uppers cost less to produce than shoes made with domestic uppers. (But, the 1.01 percent subsidy does not begin to account for this price difference.) Furthermore, the producer's estimated retail price of the completed men's moccasin made with the Indian upper and the domestic upper was the same. (Report at A-23)

C. Impact on affected industry

5. United States production of nonrubber footwear has declined in recent years. Domestic nonrubber footwear production was 413.7 million pairs in 1977, 418.9 million pairs in 1978, and 381.4 million pairs in 1979. (Report at A-13)

6. The ratio of imports of leather uppers from India to apparent domestic consumption increased from .1 percent in 1977 to .4 percent in 1979. (Report at A-18)

7. The ratio of net operating profits to net sales increased for producers of nonrubber footwear from 4.4 percent in 1977 to 5.0 percent in 1978, the last year for which data were available. (Report at A-20)

8. Utilization of plant capacity declined to 73.3 percent in 1979 from a level of 75.8 percent in 1978. (Report at A-13)

9. The production of uppers is the most labor-intensive stage of shoe construction, accounting for over 40 percent of direct labor costs. Total footwear employment levels declined from 160,000 in 1977 to 149,000 in 1979. There was no evidence submitted which indicated that there was a loss in employment in any of the firms which import leather uppers that could be directly linked to imports from India. (Report at A-19-20)

10. Inventories of nonrubber footwear rose from 36.1 million pairs in 1977 to 40.0 million pairs in 1978, an increase of 11 percent. (Report at A-14)

11. Capital expenditures for new plant and equipment in the nonrubber footwear industry increased from $51 million in 1977 to $63 million in 1978, the last year for which data were available. (Report at A-22)

12. No information was supplied with respect to productivity, return on investment, cash flow, wages, growth, or ability to raise capital of the nonrubber footwear industry.

Conclusions of Law

A. In this investigation the Commission has concluded that the appropriate domestic industry against which the impact of subsidized Indian imports should be measured is the nonrubber footwear industry.

B. The nonrubber footwear industry in the United States is not materially injured, or threatened with material injury, and the establishment of an industry in the United States is not materially retarded by reason of subsidized imports of unlasted leather footwear uppers from India.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

The present investigation was instituted effective January 1, 1980, under new section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)) in order that the Commission might determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of unlasted leather footwear uppers from India which the Department of the Treasury has determined are being subsidized. 1/ Such footwear uppers--specifically of leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear--are provided for in item 791.27 of the Tariff Schedules of the United States (TSUS). 2/ India has not signed the new Subsidies Code; the Commission is conducting the present investigation because footwear uppers provided for in TSUS item 791.27 are accorded duty-free treatment under the Generalized System of Preferences (GSP). 3/

The present investigation is the first investigation instituted by the Commission under the new countervailing duty provisions established by the Trade Agreements Act of 1979 (Public Law 96-39, 93 Stat. 144, July 26, 1979). The new countervailing duty provisions became effective January 1, 1980. A public hearing was held in connection with the investigation on February 4, 1980.

The present investigation is a so-called transition case. The Commission received advice from Treasury on October 24, 1979, concerning the subsidy and shortly thereafter instituted an investigation (No. 303-TA-11) under section 303 of the Tariff Act of 1930. Because that investigation had not been completed at the time the new countervailing duty provisions became effective (January 1, 1980), the investigation was terminated and reinstituted as the present investigation. Section 102 of the Trade Agreements Act provided for such a transition procedure. This section requires that the Commission complete this investigation and advise the administering authority (now the Department of Commerce) of the results within 75 days (in this case, by March 17, 1980).

Notice of the termination of the earlier investigation and institution of the new investigation and of the February 4, 1980, hearing was published in the Federal Register of January 17, 1980 (45 F.R. 3402). Notice of the institution of the earlier investigation (No. 303-TA-11) was published in the Federal Register of November 28, 1979 (44 F.R. 68039), (see app. C).

1/ A copy of Treasury's letter to the Commission appears in app. A.

2/ Lasted leather footwear uppers, patent leather uppers, and other footwear uppers are dutiable, are elsewhere provided for in the TSUS, and are not within the scope of this investigation, see app. B.

3/ The GSP is provided for in title V (sec. 501 et seq.) of the Trade Act of 1974 (19 U.S.C. 2461). If such footwear uppers were dutiable, there would be no need for the present investigation because India has not signed the code. Countervailing duties would be imposed automatically.

Leather footwear uppers, the subject of this investigation, are one of several footwear articles from India alleged to be subsidized in a complaint filed in early 1978 by the American Footwear Industries Association (AFIA). The complaint and the Treasury investigation based thereon covered nonrubber footwear provided for in TSUS items 700.05 through 700.85, inclusive (except items 700.28, 700.51, 700.52, 700.53, 700.54, 700.60, and 700.8510), and footwear components provided for in item 791.25 (subsequently subdivided into items 791.24 and 791.26; item 791.26 was subsequently subdivided into items 791.27 and 791.28).

Treasury initially published a negative preliminary countervailing duty determination in November 1978 in this matter, 1/ but in October 1979 Treasury published an affirmative final determination. 2/ Treasury determined that benefits are provided by the Government of India to manufacturers and exporters of leather shoes and uppers. The benefits are in the form of cash rebates upon the value of the exported products, preferential export financing, and income tax exemptions of up to 133 percent on certain export-related expenses. The aggregate benefit with respect to leather uppers was determined to be 1.01 percent ad valorem. In its October order Treasury directed that the liquidation of entries or withdrawals from warehouse for consumption of such footwear uppers be suspended pending the Commission's injury determination.

This investigation is the first case in which the Commision has dealt solely with unlasted leather footwear uppers. In recent years, the Commission has conducted many investigations on the footwear industry. A description of these investigations may be found in appendix E. However, in previous cases, footwear components, including uppers, were one of several types of footwear items being investigated.

The Product

Description and uses and manufacturing process

The unlasted leather uppers covered in this investigation are assemblies of the various pieces and reinforcements that are used to cover and to support the top of the foot in the finished shoe. The upper is the most important part of the shoe since it is the highest cost component and contains most of the fashion and quality attributes of the finished shoe. Leather shoe upper parts are generally die cut in single thickness. Because the vamp or front of the shoe will get more wear and flexing than any other part of the shoe upper, it is cut from the best section of the leather. The quarters which form the heel and sides of the upper take next priority. The locations of cuts for tongues, back seam reinforcements or backstays, and heel covers are also carefully chosen with a view to economical use of the leather and the function of the part in the shoe. The various parts of the upper are then sewn together. This product is an unlasted upper. To make sure that the right and left shoe

1/ Treasury's notice of the preliminary determination was published in the Federal Register of November 24, 1978 (43 F.R. 55028), see app. D.

2/ Notice of the final determination was published in the Federal Register of October 26, 1979 (44 F.R. 61588), see app. D.

in each pair will match in color, texture, and thickness of leather, the uppers are sorted into pairs and stamped with identifying numbers. The upper is then attached to a last, a sturdy form over which the shoe is made and which is similar in appearance to a shoe tree. Each size and type of shoe requires a different last. After the upper is put on the last, a series of operations begin in which the heel and soles are attached and which ultimately result in a finished shoe.

Leather has traditionally been considered the most desirable material for shoe uppers. Because of its fibrous composition, leather is exceptionally tear and puncture resistant. It also stretches and lengthens with the application of stress. Moderate elongation is an important factor for fit, comfort, appearance, and wear-life of the shoe. Leather's ability to absorb moisture increases its stretch and elongation capabilities. Moisture absorption also increases leather's ability to transmit heat. Most important, leather is noted for its superior lasting and molding abilities, i.e., its capacity to conform to the shape of the last (the form over which the shoe is made), and its ability to retain the desired shape without tearing.

U.S. tariff treatment

The unlasted leather footwear uppers covered by this investigation are currently provided for in TSUS item 791.27, 1/ and do not include uppers lasted or otherwise fabricated with midsoles or insoles. The rates of duty applicable to these unlasted uppers have remained unchanged at 5 percent ad valorem (col. 1) and 15 percent ad valorem (col. 2) since January 1, 1972, when the last stage of the Kennedy round reductions went into effect. Unlasted leather footwear uppers were provided for in TSUS item 791.26 from March 1, 1979, through December 31, 1979. Prior to March 1, 1979, leather uppers, whether or not lasted, were provided for under TSUS item 791.25 and were granted duty-free treatment under the GSP. On March 1, 1979, duty-free treatment for lasted uppers was terminated and separate tariff classifications were established for lasted and unlasted uppers.

Shoe uppers lasted or otherwise fabricated to midsoles or insoles are provided for in TSUS item 791.28; from March 1, 1979, through December 31, 1979, they were provided for in TSUS items 791.20, 791.24, and 791.26. Effective May 4, 1979, the U.S. Customs Service determined that uppers lasted or otherwise fabricated to midsoles or insoles constituted substantially complete footwear and should be reclassified under the provisions of leather footwear in TSUS items 700.05 through 700.45. Lasted footwear uppers resemble a shoe in that they provide a layer or two of protection between the foot and flooring; unlasted footwear uppers contain no such layer. This decision resulted from a petition by AFIA filed in September 1978 (app. B).

1/ TSUS item 791.27, leather footwear uppers, became effective Jan. 1, 1980, and along with TSUS item 791.28, other leather forms or shapes suitable for conversion into footwear, replaced item 791.26. The Commission notice of investigation and hearing included TSUS item 791.26, in effect when the notice was issued on Nov. 21, 1979.

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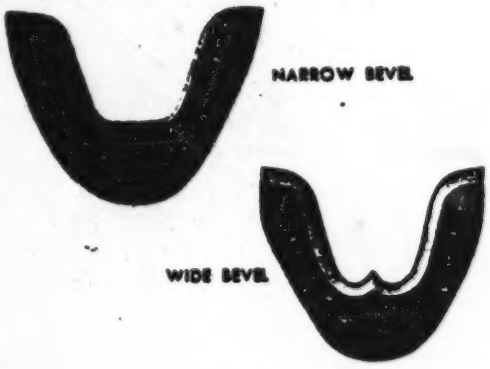
The following illustration is an example of cut footwear uppers:

Four parts of a shoe upper



These are samples of narrow and wide bevel skiving--the operation that reduces the edges of upper parts for folding or joining.

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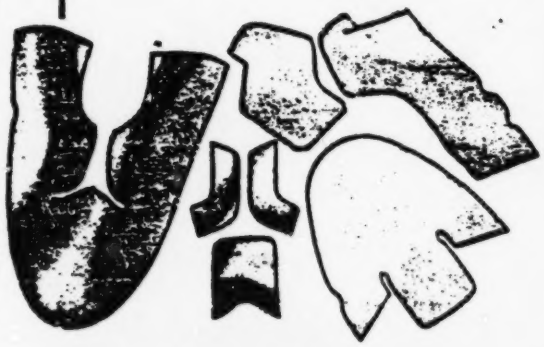
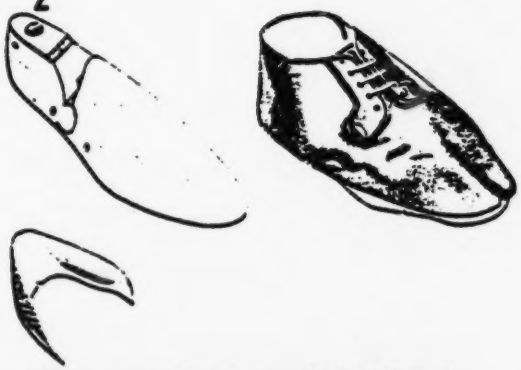
Ten steps in one type of footwear construction (Goodyear Welt) used in a man's leather, oxford height shoe:

1



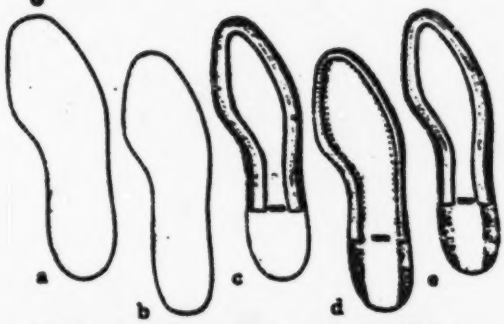
The parts of a man's Goodyear Welt "one piece vamp" shoe upper. The leather quarters and vamp are cut as a unit (left). Beside it are the tongue and eyelet row reinforcing pieces and the vamp lining (lower right). The larger section of the two-part quarter lining (upper right) extends around the heel.

2



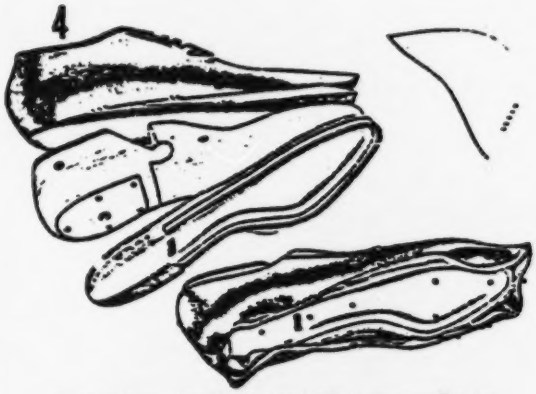
The upper parts are assembled (right), the heel reinforced with a stiff counter (lower left) and the eyelet row pieces are eyeleted and laced together temporarily with threads. At left is the wooden last on which the entire shoe will be made.

3



The leather insole blank (a) is rounded to size (b). The insole rib can be formed by attaching an adhesive-coated canvas and fibre strip to a cemented insole — the *Plirib* insole (c). Another type of rib is made by cutting and raising two parallel leaves from the insole itself (d) and cementing them together (e).

4



The ribbed insole is tacked temporarily to the last bottom and the upper and a reinforcing box toe (upper right) are assembled on the last. The upper is formed to the last with a "pulling over" operation and temporarily fastened to the insole and last.

5

The sides of the upper and linings are permanently lasted to the upstanding insole rib (left). The toe is lasted (center), "wiped" free of wrinkles and held tightly against the insole rib by a filament. The heel seat is lasted and tacked (center) and the toe stapled to the insole rib (right).

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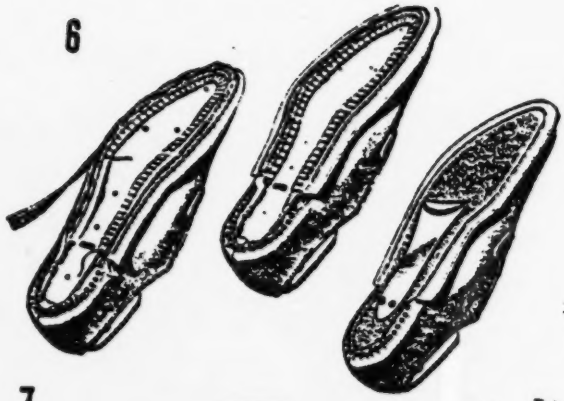
6

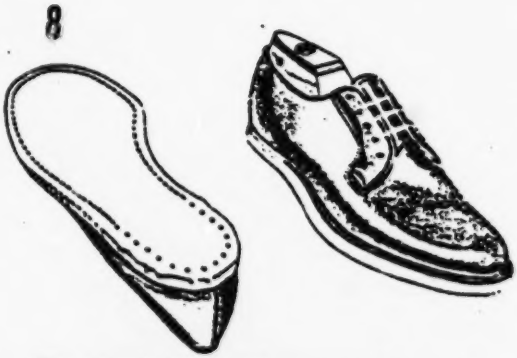


The welt, a grooved leather strip, is chain-stitched to the upper and the insole rib to form the "inseam" (left). The inseam is trimmed and the welt ends beveled to blend smoothly to the heel area (center). A reinforcing steel shank is attached to the insole, and a compound filler added to level the shoe bottom (right).

7

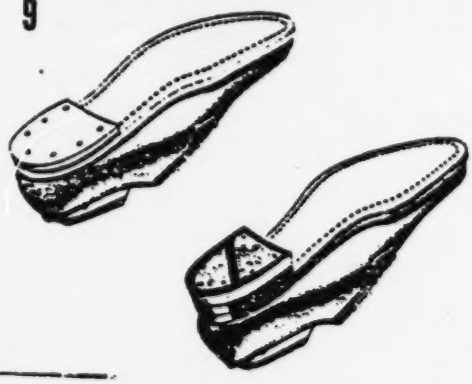
Cement is applied to the welt, insole rib and shoe bottom. The previously cemented outsole is positioned on the shoe bottom and attached to it by hydraulic or mechanical pressure, and the heel seat fastened with fibre pegs or nails (left). The outsole is trimmed or "rough rounded" to shape.

8



The outsole is stitched permanently to the welt with a Goodyear lockstitch seam, the "outseam." The outseam is made up of two separate waxed threads, one drawn up through the outsole (left), the other through the welt (right), and locked tightly around each other.

9



The surplus outsole at the heel is trimmed away, and the leather heel base is nailed to the heel seat (left). The rubber heel is positioned on the heel base, and both securely nailed. The rubber heel and base are often attached in a single nailing. The outsole edge is given a final trimming and its contour smoothed to match the heel and heel base.

10

The heel and shoe bottom are buffed with fine sandpaper and finished, the temporary lacing threads are removed and the last pulled. The heels and sole edges are also inked and burnished. The upper is cleaned, finished and polished. After inspection the completed shoe is ready to be packed and shipped.

The unlasted footwear upper imports, the subject of this investigation, have been eligible for duty-free treatment under the GSP from designated beneficiary countries since January 1, 1979. Beneficiary countries include Mexico, India, Haiti, Brazil, Colombia, the Republic of Korea, Taiwan, and the Dominican Republic, all suppliers of leather footwear uppers to the United States.

The Nature and Extent of Bounties or Grants

Treasury's finding

The U.S. Department of Treasury determined that Indian manufacturers and exporters of leather uppers received three types of export incentives from the Government of India which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930. These programs, described below, were determined to have given the manufacturers a combined benefit of 1.01 percent of the f.o.b. value of the exported leather uppers.

Share of exports to the United States subject to the subsidy determination

All unlasted leather footwear uppers, identified as TSUS item 791.27, entering the United States from India are subject to the subsidy determination. In 1979, India accounted for 7 percent of the total U.S. imports of unlasted leather footwear uppers. These imports from India amounted to 738,000 pairs, valued at $5.5 million dollars.

Range and weighted average of the bounties or grants as a percent of the export value of the subject merchandise

Treasury determined that the three programs provided the Indian manufacturers with a combined benefit of 1.01 percent of the f.o.b. value of the exported leather uppers.

Preferential export financing.--Treasury found the Indian Government to have provided short-term export financing through commercial banks at an 11 percent interest rate at the same time that the normal commercial interest rate on such financing was 12.5 percent. Based upon the data supplied, the ad valorem benefit received was 0.03 percent.

Income tax deduction for overseas expenses.--Indian footwear exporters are eligible to benefit from a program that provides for the deduction of overseas business expenses from taxable income. Under this program, exporters are able to deduct up to 133 percent of certain business expenses from their taxable income. According to the data submitted by the Indian Government, the ad valorem benefit under this program was 0.05 percent.

Cash rebates on exports.--Exporters of certain products are provided a cash rebate calculated as a percentage of the f.o.b. value of the exported

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products. For the unlasted leather footwear uppers under investigation, the percentage is 12.5 percent. The Government of India has claimed that this rebate is merely compensation for a number of indirect taxes paid on the exported product but not otherwise refunded upon export, and therefore is not a bounty or grant.

The Government of India supplied a breakdown of the various indirect taxes allegedly borne by Indian leather uppers, and calculated their ad valorem equivalent as a percentage of the f.o.b. value of the product. The level of this taxation amounted to 11.57 percent, and supporting documentation in the form of cost structures and invoices were supplied to buttress the claim. Also included was a request for additional offsets of other taxes which in theory might be allowable. This amounted to 4.5 percent of the f.o.b. value.

If these additional offsets were allowed, the combined indirect tax incidence would total 16.07 percent and would thus exceed the cash rebate of 12.5 percent received, and no bounty or grant could be said to exist. But the Government of India did not provide any documentation that could verify that the products had incurred the additional taxes, or, if so, in what amounts. The additional offsets for these taxes were therefore disregarded. Without these offsets, the cash rebate for exports of leather uppers of 12.5 percent exceeded the verifiable indirect tax incidence of 11.57 percent. Accordingly, the ad valorem benefit received under this program was 0.93 percent.

The U.S. Producers

Under the Standard Industrial Classification (SIC) system, SIC No. 3131 provides for firms primarily producing leather soles, inner soles and other boot and shoe cut stock (uppers and findings) under the classification "Boot and Shoe Cut Stock and Findings." Questionnaires were mailed to 150 firms classified under SIC No. 3131. All of the respondents stated either that they are not producers of unlasted leather footwear uppers or that they do not produce such articles for resale purposes.

In the United States, unlasted leather footwear uppers are manufactured by about 350 producers of nonrubber footwear. According to information available to the Commission, these items are used almost exclusively for captive consumption within the firms that produce them.

The AFIA and supporting unions assert that the domestic industry includes producers of unlasted leather footwear uppers and producers of nonrubber footwear. 1/ The Florsheim Shoe Co., a domestic footwear producer and importer of

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1/ AFIA statement, at pp. 13 and 15.

leather shoe uppers from India, argues that there is no domestic unlasted leather footwear upper industry and that footwear components are not "like or directly competitive" with finished footwear. 1/ Florsheim asserts that it has not been able to locate a domestic producer of the subject uppers selling to a third party. The Indian Embassy, in support of the Export Promotion Council for Finished Leather and Leather Manufacturers of India, argued that the U.S. industry should be defined as consisting of "all firms manufacturing boot and shoe cut stock and findings." The Indian Embassy states that there are few firms, if any, in the United States producing and marketing unlasted leather shoe uppers exclusively. 2/

The Foreign Industry and Capacity of the Foreign Industry to Generate Exports

India possesses one of the largest bovine, sheep, and goat populations in the world and is a major producer of hides and skins--about 105 million pieces annually. Since 1973, the Government of India has encouraged, and to some extent, even compelled, a gradual shift from the export of raw and semi-processed hides and skins to the export of finished leather and leather products. In 1977 and 1978, exports of semiprocessed and finished leather and leather products totaled $423 million. Of this, the value of semiprocessed hides and skins constituted only about $88 million.

Total Indian exports of hides, skins, leather and leather products were $58 million, 15 years ago. According to India's Central Leather Research Institute, India has the potential to reach an export level in the above categories of $1,175 million annually, at current prices, within a period of 10 years. These exports would consist mostly of finished leather, leather footwear, and other leather products, provided Indian industry undertakes a concerted modernization program for processing, tanning, and finishing of indigenously available hides and skins. The Government of India recognizes the extremely high "value-added" factor involved in the export of finished leather and leather products and now insists that all future units undertake the production of leather from the tanning stage with a reasonable level of mechanization. 3/

Counsel for the AFIA stated at the hearings that information provided by the Indian Government 4/ for an article in the Journal of Commerce 5/ indicated that exports of Indian unlasted leather footwear uppers will be a major growth area in the future. The article discussed the Indian leather industry,

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1/ Florsheim Shoe Co., statement, at pp. 13 and 15.

2/ The Indian Embassy statement, at p. 2.

3/ Data on the Indian industry were developed from information provided by the U.S. Department of State.

4/ Parties representing the Government of India were not present at the hearing.

5/ Journal of Commerce, Monday, Jan. 28, 1980, p. 10.

and was quoted by AFIA as follows: "Leather footwear and other leather manufacturers are expected to be the main source of the industry export earnings in the coming years, but the export targets set for them are unlikely to be achieved this fiscal year." AFIA contends that the leather industry in India is growing, and that the Indians intend to even double their import penetration in the United States in 1980. 1/

U.S. Importers

The Commisson questionnaire responses show that virtually all imports of Indian unlasted leather footwear uppers were accounted for by seven firms, as shown in table 1. Of the seven firms, five firms are manufacturers of non-rubber footwear. These firms import the product for their own use in the making of finished footwear in their domestic facilities.

* * * * * * *

1/ Transcript of the Hearing, Investigation No. 701-TA-1 (Final), at pp. 15 and 16.

Table 1.--Indian unlasted leather footwear uppers: U.S. imports for consumption, by firms, 1977, 1978, January-October 1978, and January-October 1979

Firm	1977	1978	January-October--	
			1978	1979
	Quantity (1,000 pairs)			
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
Total-----------	340	630	505	765
	Value (1,000 dollars)			
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
Total-----------	1,853	3,983	3,177	5,931
	Unit value (per pair)			
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
* * *-----------	***	***	***	***
Average-----------	5.45	6.32	6.29	7.75

1/ * * *.
2/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--Data submitted by U.S. importers is not comparable to official U.S. statistics which are slightly lower.

* * * * * * *

The U.S. Market and Channels of Distribution

The U.S. demand for unlasted leather footwear uppers depends on the demand for leather shoes. In recent years, U.S. production of footwear made with leather uppers has accounted for over 50 percent of total nonrubber footwear production. In 1979, U.S. production of nonrubber footwear was 386 million pairs.

U.S. shoe producers are the largest importers of unlasted leather footwear uppers. Annual data on domestic nonrubber footwear shipments manufactured with uppers imported from all sources in 1977 and 1978 are shown in table 2.

Table 2.--Nonrubber footwear: Total domestic shipments manufactured with imported uppers, by types, 1977 and 1978

Type	1977	1978
	Quantity (1,000 pairs)	
Of leather	2,634	3,376
Of plastics	147	332
With uppers of fibers 1/	461	8,598
Total	3,242	12,306
	Value (1,000 dollars)	
Of leather	22,198	37,797
Of plastics	853	2,586
With uppers of fibers 1/	2,913	14,979
Total	25,964	55,362

1/ Does not include fabric upper footwear having rubber or plastic soles vulcanized to the uppers.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission's annual survey of U.S. nonrubber footwear producers. Information represents a sample of manufacturers of nonrubber footwear accounting for approximately 80 percent of total U.S. production.

In 1977 and 1978, more than 60 percent of U.S. shipments of leather footwear were sold to retail stores that are owned or leased by firms not related to U.S. shoe producers.

Consideration of Injury to U.S. Industry

U.S. production

As stated earlier in the report, the Commission was unable to locate any firms in the United States producing unlasted leather footwear uppers exclusively for sale to other footwear producers. Generally, domestic producers of leather footwear make their own uppers and use them in producing finished footwear. U.S. production of leather footwear and nonrubber footwear (including leather) are shown in the following tabulation:

(Million pairs)

Year	Leather footwear	Nonrubber footwear
1977	226.7	413.7
1978	226.3	418.9
1979	212.2	381.4

Domestic production of unlasted leather footwear uppers, though unknown, approximates domestic production of leather footwear because all leather footwear contains leather uppers and because imports and exports of such uppers are relatively small in comparison with leather footwear production.

Capacity or utilization of capacity and effect of imports on growth of the U.S. industry

Separate data are not available on capacity or utilization of capacity with regard to unlasted leather footwear uppers. Capacity data from the AFIA on the nonrubber footwear industry as a whole, for 1977-79 are presented in the following tabulation:

Item	1977	1978	1979
Plant capacity--million pairs	541.5	531.9	519.4
Actual production--do	406.0	403.3	380.7
Utilization of capacity--percent	75.0	75.8	73.3

AFIA argues that the decline in domestic leather footwear production is coupled with the increase in imports of unlasted leather uppers and has contributed to the closings of footwear plants and a 17-percent decline between 1977 and 1978 in the number of firms reportedly producing footwear. 1/

U.S. producers' shipments and exports

The integrated nature of footwear production causes most shoe uppers to be incorporated in U.S. statistics as complete shoes rather than separately as uppers.

U.S. exports of unlasted leather uppers are included in the official statistics for leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear; leather welting; and leather shoe laces (Schedule B. No. 791.2200). In 1978, U.S. exports under this number were valued at $6.4 million. In January-October 1979, exports amounted to $7.3 million, representing a 36 percent increase over the corresponding period in 1978. The major export markets are Mexico, the Dominican Republic, and Canada.

Based on a sizable sample of Shipper's Export Declarations which included commodities classifed under Schedule B number 791.2200, the Bureau of the Census found that in a 3-month period in 1979, U.S. exporters reported $1.5 million in shipments of leather shoe uppers--an average of $516,000 a month. From this information, it is estimated that in January-October 1979, more than 70 percent of the total exports classified in Schedule B number 791.2200, consisted of leather shoe uppers.

Inventories

Separate data on inventories of unlasted leather uppers are not available. Yearend inventories of nonrubber footwear rose from 36.1 million pairs in 1977 to 40.0 million pairs in 1978, or by 11 percent. Data for 1979 is not available. The ratio of yearend inventories of finished footwear to domestic production increased from 8.6 percent in 1977 to 9.5 percent in 1978, as shown in the following tabulation:

Item	1977	1978
Yearend inventories---million pairs--	36.1	40.0
Domestic production---do----	417.7	418.9
Ratio of inventories to production---percent--	8.6	9.5

1/ AFIA statement, at p. 17.

More detailed data on producers' yearend inventories of U.S. nonrubber footwear, by types, in 1977 and 1978 are shown in table 3.

Table 3.--Nonrubber footwear: Yearend inventories of U.S. producers, by types, 1977 and 1978

Type and year	Quantity		Value	
	Amount	Share of total accounted for by imports	Amount	Share of total accounted for by imports
	1,000 pairs	Percent	1,000 pairs	Percent
1977:				
Athletic footwear	3,127	3.2	20,737	2.3
Work shoes	3,367	2.9	37,672	3.0
House slippers	6,123	12.4	8,405	10.3
All other nonrubber footwear for--				
Men, youths, and boys	9,959	3.2	106,939	5.6
Women and misses	10,796	2.3	80,894	2.6
Children and infants	2,725	1.4	12,740	1.0
Total	36,097	4.4	267,387	6.0
1978:				
Athletic footwear	2,792	4.4	20,633	2.6
Work shoes	3,695	3.2	44,474	3.2
House slippers	8,251	14.8	11,574	10.9
All other nonrubber footwear for--				
Men, youths, and boys	10,744	6.0	125,693	9.0
Women and misses	12,386	2.2	98,712	3.2
Children and infants	2,096	1.0	11,260	0.8
Total	39,964	4.0	312,346	5.7

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission sent to nonrubber footwear producers annually.

U.S. imports

Significance of the volume of imports or any increase in that volume.--In 1978, both quantity and value of U.S. imports of unlasted leather uppers were more than nine times what they were in 1977--9.4 million pairs, valued at $25.8 million, up from about 1 million pairs, valued at $2.7 million. Imports continued to increase in 1979 to 9.5 million pairs, valued at $33.4 million, as shown in table 4.

In 1979, Korea was the largest supplier of unlasted leather uppers to the United States, in terms of quantity (26 percent of total), followed by the Dominican Republic (17 percent), Haiti (16 percent), Taiwan (12 percent), and India (7 percent). Imports from these countries have been subject to dutyfree treatment since 1976 under the GSP.

The recent rapid increase in imports of leather uppers beginning in 1978 is viewed by many members of the shoe industry as an attempt by Taiwan and Korea to circumvent the footwear quantitative restrictions established by the orderly marketing agreements in 1977. However, industry spokesmen have also indicated that U.S. firms are importing uppers from various sources in order to compete with imported footwear in both price and quality of materials and workmanship. Testimony given at the hearing by the parties in favor of the petition stated that it was not quality or supply reliability that influenced firms to import Indian uppers, but the price advantage. 1/

Effect of imports on U.S. producers.--All U.S. producers of unlasted leather footwear apparently either produce or import the uppers used in making the finished footwear. Virtually all of the imports of uppers from India under investigation were imported by U.S. producers either directly or on their behalf, for their own use. During January-October 1979, most of these Indian unlasted leather footwear uppers were used in making men's moccasin style shoes, but one company reported making men's boots. The U.S. producers which use the uppers from India in making footwear claim that the imports result in substantial savings in the cutting segment of producing the footwear. In addition, some producers stated certain types of Indian leather, kidskin, and red hair sheep cabretta, used in men's moccasin-type shoes, are superior to U.S. types. Most of the savings are effected in the labor and overhead costs, not in the leather itself.

Since production of unlasted uppers represents a large portion of the total labor involved in producing men's leather footwear, imports of unlasted leather footwear uppers from India affect the number of U.S. employees in the nonrubber footwear industry. However, imports of the leather uppers from India amounted to 765,000 pairs in January-October 1979, or an estimated 900,000 pairs for the year 1979 (table 1), which was 0.4 percent of total U.S. consumption of leather uppers.

AFIA stated that imported uppers from India have seriously aggravated the injury suffered by the domestic footwear industry. AFIA asserted that the primary injury of increased Indian shoe upper imports has been to U.S. workers, since the production of uppers is the most labor-intensive element in the manufacture of shoes. 2/

1/ Transcript, Investigation No. 701-TA-1 (Final), at pp. 47-48.
2/ AFIA statement, at pp. 16, 18, and 20.

Table 4.--Unlasted leather footwear uppers: U.S. imports for consumption, 1977, 1978, and 1979

Source	1977 1/	1978	1979
	Quantity (1,000 pairs)		
Republic of Korea	262	3,814	2,483
Haiti	166	1,627	1,522
Dominican Republic	116	1,072	1,627
India	81	571	738
Brazil	23	695	223
Mexico	84	406	647
Taiwan	122	393	1,143
Ireland	29	109	47
El Salvador	0	315	349
Colombia	72	96	90
Italy	0	24	98
Japan	4	68	9
Spain	9	17	13
All other	2	183	551
Total	969	9,389	9,541
	Value (1,000 dollars)		
Republic of Korea	469	7,819	5,486
Haiti	477	4,048	3,763
Dominican Republic	336	3,203	5,342
India	319	3,066	5,533
Brazil	86	2,246	1,235
Mexico	233	1,697	4,968
Taiwan	206	781	2,709
Ireland	171	766	473
El Salvador	-	674	565
Colombia	308	416	442
Italy	-	244	1,062
Japan	8	167	44
Spain	70	154	97
All other	5	479	1,690
Total	2,687	25,759	33,410
	Unit value (per pair) 2/		
Republic of Korea	$1.79	$2.05	$2.21
Haiti	2.87	2.49	2.47
Dominican Republic	2.88	2.99	3.28
India	3.93	5.37	7.50
Brazil	3.77	3.23	5.33
Mexico	2.78	4.18	7.68
Taiwan	1.69	1.99	2.37
Ireland	5.81	7.06	10.05
El Salvador	-	2.14	1.62
Colombia	4.31	4.31	4.89
Italy	-	10.00	10.89
Japan	2.27	2.45	5.03
Spain	7.79	9.18	7.20
All other	3.04	2.61	3.07
Average	2.77	2.74	3.50

1/ Data includes both lasted and unlasted leather uppers prior to July 1, 1977, because separate data were not available.

2/ Calculated from unrounded figures.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Note.--Because of rounding figures may not add to totals shown.

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A party opposed to the petition, the Florsheim Shoe Co., argued that because U.S. producers are the largest importers of Indian uppers it is illogical and absurd to contend that the imported articles are injuring the parties importing them. 1/

Rate of increase of subsidized exports to the United States and the availability of other export markets.--Table 1 shows U.S. imports of Indian unlasted leather footwear uppers as reported to the Commission. Imports from India have increased from 245,000 pairs valued at $805,000, in 1975, to 630,000 pairs, valued at $4.0 million, in 1978. During January-October 1979, imports reached 765,000 pairs, or by an increase of 51 percent more than the amount of imports in the corresponding period of 1978. Indian uppers were valued at $5.9 million in January-October 1979, representing an increase of 87 percent more than those in the corresponding period of 1978. The average unit value of Indian uppers, as reported to the Commission, has increased sharply. In 1977, the average unit value was $5.45 per pair, increasing to $6.32 per pair in 1978, and to $7.75 per pair in January-October 1979, or by a 23-percent jump compared with the corresponding period of 1978. The rapid increase in the unit values from India is apparently due to the increased value of the high quality leather being imported from India.

* * * * * * *

Counsel for Florsheim stated at the hearing that it was sincerely doubtful that the firm he represented would switch to another country as a source for leather uppers in order to save 7.4 cents or a comparable figure derived from the 1.01 percent subsidy found by Treasury to apply to the Indian imports. 2/

U.S. consumption

Separate data are not available on apparent U.S. consumption of unlasted leather footwear uppers. Such data have been estimated for unlasted leather footwear uppers based on U.S. shipments of leather footwear and are shown in table 6. Apparent consumption of unlasted leather footwear uppers decreased from 228 million pairs in 1977 to 222 million pairs in 1979, or by 3 percent. The ratio of imports of all unlasted leather footwear uppers to apparent consumption increased from 0.4 percent in 1977 to 4.3 percent in 1979. The ratio of imports from India to apparent consumption increased from 0.1 percent in 1977 to 0.4 percent in 1979.

1/ Florsheim statement, at p. 7.
2/ Transcript, Investigation No. 701-TA-1 (Final), at p. 90.

Table 5.--Unlasted leather footwear uppers: U.S. producers' shipments, imports, and apparent consumption, 1977-79 1/

Year	U.S. producers' shipments 2/	Imports 3/	Apparent consumption	Imports from India 4/	Ratio of imports to consumption	Ratio of imports from India to consumption
	Million of pairs				Percent	
1977	226.7	4/ 1.0	227.7	0.3	0.4	0.1
1978	226.3	9.4	235.7	.6	4.0	.3
1979	5/ 212.2	9.5	221.7	.9	4.3	.4

1/ Data on exports are not available, but are believed to have been less than 1 million pairs in 1978 and 1979.

2/ Assumes 1 pair of leather shoes equals 1 pair of leather uppers.

3/ Data include both lasted and unlasted uppers prior to July 1, 1977, because separate data were not available.

4/ Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Source: Data compiled from the U.S. Department of Commerce, except as noted.

Employment

In the production of nonrubber footwear, the cutting and forming of shoe uppers are the most labor-intensive stages of shoe construction. According to industry sources, this part of the production process accounts for over 40 percent of the direct labor cost involved in producing the shoe. Of all the production employees directly involved in the manufacturing operations of the nonrubber footwear industry, about 35 percent are highly skilled (i.e., cutters, stitchers, and lasters). Of these highly skilled workers, approximately 60 percent deal with the production of shoe uppers.

The number of all employees in the nonrubber footwear industry declined from 160,000 in 1977 to 149,000 in 1979. The number of production workers dropped by 6 percent during the same period as shown in the following tabulation:

(1,000)

Year	All employees	Production workers
1977	159.9	136.5
1978	157.8	137.6
1979	1/ 148.9	1/ 127.9

1/ Preliminary; data unadjusted for seasonal variation.

AFIA estimated that 45 to 55 percent of the work force in a footwear plant is engaged solely in the production of shoe uppers, and that about 50 percent of the cost of the shoe is the upper. AFIA estimated that imports of leather uppers in 1978 "denied" jobs to more than 1,900 domestic workers who could have produced uppers. 1/

The attorney representing the Florsheim Shoe Co.--a U.S. producer of shoes * * * was asked at the hearing if any quantifiable employment had been lost because of that firms' decision to import uppers from India. Counsel representing Florsheim stated that he had been assured by his client's personnel, both in purchasing and in the legal department that there had been no reduction in employment that could be directly related to Florshiem's Indian import program. 2/

Between January 1977 and January 1980, approximately 1,300 workers employed in the manufacture of all types of footwear components were certified by the U.S. Department of Labor as eligible for trade adjustment assistance. Labor's affirmative certification of the workers was based on trade data for finished footwear. In most cases, the same firms producing the components also manufacture finished footwear. Since 1977, two of the major importers of Indian uppers, *** and ***, have had workers employed in the manufacture of footwear components certified as eligible for trade adjustment assistance.

* * * * * * *

The products produced by the certified workers of these two companies were not comparable with the type of unlasted leather footwear upper imported from India, i.e. dress moccasins and boots.

Financial experience of U.S. producers

Separate data are not available on the financial experience of U.S. producers on their unlasted leather footwear upper operations. This was confirmed at the hearing by parties in favor of the petition and parties opposed to it. 3/ The financial experience of U.S. producers of nonrubber footwear is presented in table 7.

Information received from 140 producers of nonrubber footwear indicated that from 1977 to 1978, the ratio of net operating profits to net sales increased for all firms having a yearly production of 1 million pairs of shoes or more. Profits for the domestic nonrubber footwear industry as a whole were up in 1978 to 5.0 percent from 4.4 percent in 1977. Financial data on the nonrubber footwear industry are not available for 1979.

It was noted by the Florsheim Shoe Co. in their post-hearing brief that profits were increasing during 1977 and 1978, when the volume of unlasted uppers being imported from India was also increasing. 4/

1/ AFIA statement, at p. 18.
2/ Transcript, Investigation No. 701-TA-1 (Final), at p. 100.
3/ Transcript, Investigation No. 701-TA-1 (Final), at pp. 23 and 103.
4/ Post-hearing brief, of Florsheim Shoe Co., at p. 4.

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Table 6.-- Profit-and-loss experience of 140 U.S. producers of nonrubber footwear on their manufacturing operations, by ranges of production, accounting years 1977 and 1978

Range of production and year	Net sales	Cost of goods sold	Gross profit	Selling, administrative, and general expenses	Net operating profit	Other income or (other expenses)	Net profit before taxes	Ratio of net operating profit to net sales
	1,000 dollars							Percent
Less than 200,000 pairs:								
1977	18,233	13,301	4,932	3,724	1,208	(109)	1,099	6.6
1978	18,278	13,925	4,353	3,682	671	(204)	467	3.7
200,000 to 499,999 pairs:								
1977	193,553	153,400	40,153	30,619	9,534	(2,566)	6,968	4.9
1978	204,189	162,853	41,336	33,512	7,824	(2,718)	5,106	3.8
500,000 to 999,999 pairs:								
1977	334,953	273,390	61,563	51,366	10,197	(2,449)	7,748	3.0
1978	357,860	293,665	64,195	54,476	9,719	(2,760)	6,959	2.7
1,000,000 to 1,999,999 pairs:								
1977	374,597	303,723	70,874	52,713	18,161	(1,349)	16,812	4.8
1978	409,581	329,796	79,785	58,948	20,837	(3,244)	17,593	5.1
2,000,000 to 3,999,999 pairs:								
1977	367,362	291,335	76,027	51,581	24,446	(2,366)	22,080	6.7
1978	403,705	314,743	88,962	57,696	31,266	(3,364)	27,902	7.7
4,000,000 to 9,999,999 pairs:								
1977	330,392	263,204	67,188	43,072	24,116	(711)	23,405	7.3
1978	384,939	301,112	83,827	48,312	35,515	(726)	34,789	9.2
More than 10,000,000 pairs:								
1977 1/	1,179,511	949,004	230,507	194,200	36,307	1,329	37,636	3.1
1978	1,214,800	982,044	232,756	189,697	43,059	(2,149)	40,910	3.5
Total, all categories:								
1977 1/	2,798,601	2,247,357	551,244	427,275	123,969	(8,221)	115,748	4.4
1978	2,993,352	2,398,138	595,214	446,323	148,891	(15,165)	133,726	5.0

1/ Accounting for approximately 80 percent of total production.
2/ Based on revised 1977 financial data provided to the Commission in March 1979.

Source: Compiled from data submitted in response to U.S. producers' questionnaires of the U.S. International Trade Commission.

Research and development and capital expenditures

Separate data are not available on research and development and capital expenditures for unlasted leather footwear upper operations of U.S. producers.

Data on domestic nonrubber footwear producers' capital and research and development expenditures in 1977 and 1978 are presented in table 8. Capital expenditures increased from $51.5 million in 1977, to $63.0 million in 1978, or by 22 percent. In 1978, research and development expenditures increased to $8.9 million from the $8.3 million in 1977. Data are not available for 1979.

Table 7.--Nonrubber footwear: U.S. producers' capital and research and development expenditures, 1977 and 1978

(In thousands of dollars)

Type of expenditure	1977	1978
Capital expenditures for--		
New plants 1/	1,351	8,735
Additions to existing plants 1/	7,279	7,102
Machinery, equipment, and fixtures 2/	29,341	35,054
Leased machinery and equipment	11,997	11,923
Environmental improvements	1,521	206
Total	51,489	63,020
Research and development expenditures	8,342	8,918

1/ Includes land and land improvements.
2/ Excludes leased items.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Consideration of the Causal Relationship Between Subsidized Imports and the Alleged Injury

Market share and market penetration

Based on domestic shipments of leather footwear, the estimated market penetration of U.S. imports of unlasted leather footwear uppers from India is low. U.S. imports of Indian unlasted leather footwear uppers accounted for 0.1 percent of domestic consumption in 1977, increasing to 0.4 percent in 1979.

Price comparisons

Effect of imports on prices in the United States and other factors affecting domestic prices.--No firm could be found in the United States which manufactures and sells this item for third party use. U.S. shoe manufacturers characteristically exhibit an extensive degree of upstream vertical integration. As a result, all the major shoe manufacturing firms usually engage in a

substantial amount of production of unlasted leather footwear uppers for their own use. The balance of their needs for this item are supplied exclusively by imports.

Price undercutting by the imported merchandise compared with the price of like products in the United States.--The extent of price undercutting by Indian imports could not be judged since there is no domestic price for unlasted leather footwear uppers.

The staff was able to obtain by phone from * * * a cost and price comparison on Indian unlasted leather footwear uppers used in men's moccasin-type shoes, which constitutes the largest volume of footwear made from the Indian leather uppers. The comparison is shown in the following tabulation (cost per pair):

Costs	Indian	Domestic sources
Material	***	***
Labor and overhead	***	***
Estimated profit	***	***
Duty, freight and insurance	***	***
Total	***	***

It should be noted that the producer's estimated retail price of the completed men's moccasin made with the Indian upper and the domestic upper was the same.

The staff also obtained by phone a 1979 cost comparison from a manufacturer of men's boots, * * *, those made from Indian unlasted shoe uppers to those made in the United States. The results of this comparison for Wellington boots, plain black style, with a leather lining, are shown in the following tabulation:

	Boots uppers made in India (per pair)	Boots uppers made in United States (per pair)
Landed value	***	***
Damage allowance	***	***
Total	***	***

The estimated retail price of the boots made with Indian uppers ranged from $46 to $48 per pair; the estimated retail price of the boots made with domestic uppers ranged from $55 to $60 per pair.

Testimony offered in the hearing clearly suggests that (1) imports of unlasted leather uppers from India are comparable in quality to U.S. products of similar items and (2) these imports are priced considerably below U.S. production costs.

On the dimension of quality, the counsel for AFIA answered in the positive to a question of whether the product from India is generally comparable in quality to the overall mix of U.S. production. 1/ Also, counsel for Florsheim responded that the importation of Indian unlasted leather uppers does not represent a sacrifice in quality. 2/ Counsel for Florsheim indicates that Florsheim imports from India because it is profitable to do so. In addition, it was stated that Florsheim would probably continue importing from India were a countervailing duty of 1.01 percent imposed. The approximate $7.50 unit value per pair of the Indian leather upper imports would be increased by only .074 cents as a result. 3/

Consideration of whether the imported merchandise depresses prices or prevents price increases.--Since no U.S. prices for domestic unlasted leather uppers were found to exist, accordingly no price depression or supression could be determined.

Loss of sales

The increase in import market penetration of Indian uppers from 0.1 in 1979 to 0.4 percent suggests that some U.S. unlasted leather upper production may have been replaced by imports. However, the amount of U.S. production possibly reduced as a result of Indian imports is not known and conflicting hearing testimony does not settle this issue. AFIA implies that imported unlasted leather uppers replace U.S. production on a one-to-one basis and AFIA uses these imports as the United States replaced production base from which domestic employment loss figures are calculated. 4/ However, counsel for Florsheim * * * states that his client asserts no employment reduction has occurred which is directly related to its imports of unlasted leather uppers from India. 5/

1/ Transcript, Investigation No. 701-TA-1 (Final), at p. 25.
2/ Ibid., at p. 100.
3/ Post-hearing brief of Florsheim Shoe Co., at pp. 3 and 4.
4/ Transcript, Investigation No. 701-TA-1 (Final), at p. 100.
5/ Ibid., at p. 28-29.

APPENDIX A

LETTER FROM TREASURY DEPARTMENT

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

OCT 19 1979

'79 OCT 24 AM 10:27

Dear Mr. Chairman:

In accordance with section 303(b) of the Tariff Act of 1930, as amended, you are hereby advised that a bounty or grant is being paid with respect to certain non-rubber footwear components imported from India and entered under TSUS item number 791.26, which merchandise from said country is accorded duty-free treatment under the Generalized System of Preferences (GSP).

Attached is a copy of the notice of "Final Countervailing Duty Determination" in this case which sets forth the bases of my decision. The U.S. Customs Service will make available to the U.S. International Trade Commission as promptly as possible its files on the instant bounties being paid or bestowed for the Commission's use in the investigation as to whether an industry in the United States is being, or likely to be, injured, or is prevented from being established by reason of the importation of this merchandise into the United States.

Because some of the data in this file is regarded by Customs to be of a confidential nature, it is requested that the Commission consider all information therein contained for the official use of the Commission only, and not to be disclosed to others without prior clearance from Customs.

Sincerely,

David R. Brennan
Acting General Counsel

The Honorable
Joseph O. Parker
Chairman, U.S. International
Trade Commission
Washington, D.C. 20436

Attachment

DOCKET NUMBER
Office of the
Secretary
Intl. Trade Commission

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APPENDIX B

TARIFF CLASSIFICATION--LASTED LEATHER FOOTWEAR UPPERS AS PUBLISHED IN THE FEDERAL REGISTER

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and disposition of loan payments received from the Borrower.

The closing date by which prospective investors are requested to submit proposals to the Borrower is the close of business on April 16, 1979. Proposals must be communicated to Borrower by telex. Borrower will notify investors of this selection within seventy-two (72) hours after the closing date. It is desired that negotiation of the Loan Agreement and Contract of Guaranty take place in Washington, D.C. within a week or ten (10) days after the Borrower selects an investor and that signing of the Loan and Guaranty Agreements take place in Rio de Janeiro on May 9, or 10, 1979 during the proceedings of the XVII Annual Interamerican Savings and Loan Conference. However, an investor's ability to meet this schedule for negotiation and signing will not be taken into account in Borrower's evaluation of proposals.

Eligible investors are invited to consult promptly with the Borrower. Telephone numbers in Venezuela are 781.1013, 781.1233, and 781.1468. Those investors interested in extending a loan to the Borrower should communicate with the Borrower at the following address: Banco Interamericano de Ahorro y Prestamo, Caracas, Venezuela, Telex No. 21737 BIAPE VE.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632-9637.

To facilitate A.I.D. approval, copies of proposals made to the Borrower may at the investor's option be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

David McVoy,
Assistant Director for Operations, Office of Housing.

March 30, 1979.

[FR Doc. 79-10340 Filed 4-3-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

CUSTOMS SERVICE

Tariff Classification—Lasted Leather Footwear Uppers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Decision concerning an American manufacturer's petition.

SUMMARY: The Customs Service has reviewed a petition filed by American manufacturers of nonrubber footwear, requesting that leather footwear uppers which have been lasted, i.e., have an insole or midsole and have been formed to fit the foot, be reclassified under the provisions for leather footwear in items 700.05 through 700.45, Tariff Schedules of the United States (TSUS). Before March 1, 1979, merchandise of this type was classifiable under the provisions for leather, cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, TSUS (the merchandise is now classifiable under items 791.20 and 791.24, TSUS). The Customs Service has reviewed the record and determined that lasted leather footwear uppers constitute substantially complete footwear. Therefore, the merchandise has been reclassified in the manner requested in the petition.

DATES: This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after May 4, 1979, in the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

On September 5, 1978, a notice was published in the **Federal Register** (43 FR 39465) indicating that the Customs Service had received a petition from American manufacturers of nonrubber footwear requesting the reclassification of leather footwear uppers which have been lasted, i.e., have an insole or midsole and have been formed to fit the foot, under the provisions for leather footwear in items 700.05 through 700.45, Tariff Schedules of the United States (TSUS). Lasted leather footwear uppers entered, or withdrawn from warehouse, for consumption before March 1, 1979, were classifiable under the provisions for leather, cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, (TSUS) (see the explanation under the heading "Executive Order 12124" below). Although comments were to have been received on or before November 6, 1978, a notice extending the period of time for the submission of comments to December 6, 1978, was published in the **Federal Register** on November 9, 1978 (43 FR 52320).

In support of the position that lasted leather footwear uppers are classifiable under the provisions for leather footwear in items 700.05 through 700.45, TSUS, the American manufacturer's petition enunciated the arguments set forth below.

(1) Lasted leather footwear uppers constitute unfinished footwear within the intendment of General Headnote 10(h), TSUS, which provides that, unless the context requires otherwise, a tariff description for an article (e.g., leather footwear) covers such article whether or not assembled and whether or not finished.

(2) Leather footwear uppers which have been lasted are no longer manufactured parts, but rather have become manufactures of leather.

(3) Lasted leather footwear uppers with insoles or midsoles, not being entirely of leather, are not intended to be included within a tariff provision (i.e., item 791.20 or 791.25, TSUS) that is not a chief value provision.

(4) The legislative history and predecessor provisions indicate a congressional intent to include only individual leather components in the tariff classification provisions for leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear.

(5) The failure to classify the lasted uppers as completed footwear undermines congressional intent to protect the footwear industry.

(6) When two tariff provisions apply, an article is properly classifiable under the most specific provision or, if both are equally specific, the provision for which a higher rate of duty is assessed.

Discussion of Comments

More than fifty comments, including three substantive legal briefs, were received concerning the instant American manufacturer's petition.

Comments in support of the petition allege that classification of the lasted leather footwear uppers under the provisions for leather, cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, TSUS, circumvents the Orderly Marketing Agreements concluded with the Republics of China and Korea, thus undermining the effectiveness of the President's import relief program for the domestic footwear industry. It is also argued that the current classification of lasted leather footwear uppers is inconsistent with the current classification of lasted vinyl footwear

uppers which are treated as footwear for tariff purposes. These lasted vinyl footwear uppers require only the addition of outsoles to complete the product.

In opposition to the petition, arguments presented in the legal briefs submitted are summarized below.

(1) The American manufacturer's petition is deficient inasmuch as it does not cite specific footwear provisions allegedly applicable to each lasted leather footwear upper.

(2) Lasted leather footwear uppers are not classifiable as leather footwear inasmuch as they lack substantial and essential elements, i.e., soles and heels. In this regard, the case of *Authentic Furniture Products, Inc.* v. *United States*, 61 C.C.P.A. 5, C.A.D. 1109 (1973), is cited.

(3) The provisions for footwear are "use" provisions and include only those products chiefly used as wearing apparel for the feet. Inasmuch as lasted leather footwear uppers cannot be used as footwear in their condition as imported, they cannot be treated as footwear for tariff purposes.

(4) Lasted leather footwear uppers cannot be identified with a particular tariff provision until the soles and heels are affixed.

(5) The doctrine of relative specificity cannot be applied to the competing provisions in this instance because the tariff provisions involved are mutually exclusive. Items 700.05 through 700.45, TSUS, and items 791.20 and 791.25, TSUS, were enacted by Congress to reflect different stages of manufacture.

(6) Even if the doctrine of relative specificity were applicable, the provisions for leather, cut or wholly or partly manufactured into forms and shapes suitable for conversion into footwear, in items 791.20 and 791.25, TSUS, are more difficult to satisfy and therefore more specific than the various footwear provisions.

(7) The existence or absence of voluntary restraint agreements relating to specific products is not relevant to the interpretation of the statutory language in question.

One commenter opposing the petition states that he cannot produce in the United States a comparable product at the same price at which he can process lasted leather footwear uppers into finished or completed footwear. Furthermore, he adds that the importation of semifinished products requires the addition of American labor to complete the products.

Determination

Notwithstanding that a specific tariff provision is not cited for each lasted leather footwear upper, the instant American manufacturer's petition complies with the requirements of 19 U.S.C. 1516(a). The item numbers covering the provisions for leather footwear are specifically listed and classification of the subject merchandise thereunder is readily ascertainable.

The classification of lasted leather footwear uppers is governed by General Headnote 10(h), TSUS, which states that, "unless the context requires otherwise, a tariff description for an article covers such article, whether assembled or not assembled, and whether finished or not finished."

The Customs Service has determined that lasted leather footwear uppers have undergone substantial processing to the extent that they have been advanced beyond the stage of being forms and shapes suitable for conversion into footwear and constitute unfinished footwear.

The absence of a sole and heel does not preclude classification of lasted leather footwear uppers as leather footwear. An unfinished article may be classified as the finished article when completed to the stage at which the fundamental characteristic of the finished article is apparent. *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.D. 4765 (1978). With respect to lasted leather footwear uppers, the essence or fundamental characteristic of a shoe is readily apparent. A lasted leather footwear upper resembles a shoe and provides a layer or two of protection between the foot and flooring.

Lasted leather footwear uppers which cannot be identified with a particular tariff provision covering a specific type of leather footwear are nonetheless to be considered footwear for tariff purposes and classifiable under items 700.35, 700.43, or 700.45, TSUS, according to gender and/or value per pair.

The Customs Service has determined that lasted leather footwear uppers constitute unfinished leather footwear classifiable under the applicable provisions for leather footwear in items 700.05 through 700.45, TSUS.

The decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the Customs Bulletin.

Executive Order 12124

It is noted that Executive Order 12124 of February 28, 1979, amending the Generalized System of Preferences (GSP), deleted item 791.25, TSUS, and added a new item number, item 791.24, TSUS, which provides for leather footwear uppers, lasted or otherwise fabricated with midsoles or insoles. The applicable rate of duty for item 791.24, TSUS, is 5 percent ad valorem. Merchandise classifiable under item 791.24, TSUS, is not entitled to duty-free treatment under GSP.

Inasmuch as Executive Order 12124 was designed solely to eliminate GSP treatment for lasted leather footwear uppers formerly classifiable under item 791.25, TSUS, the change is not determinative as to the classification of the subject lasted leather footwear uppers.

Dated: March 27, 1979.

R. E. Chasen,
Commissioner of Customs.

[T.D. 79-100]

[FR Doc. 79-10245 4-3-79; 8:45 am]
BILLING CODE 5210-05-M

VETERANS ADMINISTRATION

Special Medical Advisory Group; Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Special Medical Advisory Group, authorized by 38 U.S.C. 4112(a), will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on April 19 and 20, 1979. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The general sessions will convene at 8:30 a.m. on April 19, and at 9:00 a.m. on April 20. These will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Pryor, Executive Secretary, Special Medical Advisory Group, Veterans Administration Central Office (Phone 202/389-2298) prior to April 9, 1979.

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APPENDIX C

NOTICES OF INVESTIGATION AND HEARING

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[303-TA-11]

NONRUBBER FOOTWEAR COMPONENTS FROM INDIA

Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on October 24, 1979, that a bounty or grant is being paid with respect to certain nonrubber footwear components imported from India, entered under item 791.26 of the Tariff Schedules of the United States and accorded duty-free treatment under the Generalized System of Preferences, the U.S. International Trade Commission, on November 20, 1979, instituted investigation No. 303-TA-11 under section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (the countervailing duty law), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Treasury defined the term "certain nonrubber footwear components" to mean leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, other than patent leather and other than nonpatent leather uppers lasted or otherwise fabricated with midsoles or insoles.

Conduct of the investigation under the Trade Agreements Act of 1979. Under the countervailing duty law, the Commission is required to notify the Treasury Department of its determination in this investigation not later than 3 months after receiving Treasury's advice, in this case not later than January 24, 1980. However, the countervailing duty law has been amended in

part and supplemented in part by sections 101-103 of the Trade Agreements Act of 1979 (Public Law 96-39, 93 Stat. 144, July 26, 1979). Section 101 of the act establishes a new title VII of the Tariff Act (sec. 701, et seq.; 19 U.S.C. 1671, et seq.) providing new (supplemental) countervailing duty provisions. Section 102 treats with investigations pending as of the effective date of the new title VII provisions (January 1, 1980, assuming that certain conditions set forth in secs. 2 and 107 of the Trade Agreements Act are fulfilled as of that date). Section 103 amends the present law (sec. 303 of the Tariff Act) in several specific respects to take into account new title VII of the Tariff Act.

Assuming that the new law becomes effective on January 1, 1980, the Commission will be required, under section 102 of the Trade Agreements Act, to terminate this investigation, institute a new investigation under subtitle A of title VII of the Tariff Act, and complete the new investigation within 75 days after January 1. On the assumption that the new law will become effective on January 1, 1980, the procedures described below will be followed in the present investigation.

Hearing. A public hearing in connection with the investigation will be held on Monday, February 4, 1980, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t. Requests to appear at the public hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), January 28, 1980. (If it appears that the new countervailing duty provisions will not become effective on January 1, 1980, a notice rescheduling the hearing (and related prehearing report and statements) for an earlier date will be issued.)

Prehearing statements. The Commission will prepare and place on the record by January 14, 1980, a staff report containing preliminary findings of fact. Parties to the investigation should submit to the Commission a prehearing statement not later than January 24, 1980. The content of such statement should include the following:

(a) Exceptions, if any, to the preliminary findings of fact contained in the staff report;
(b) Any additional or proposed alternative findings of fact;
(c) Proposed conclusions of law;
(d) Any other information and arguments which a party believes relevant to the Commission's determination in this investigation; and
(e) A proposed determination for adoption by the Commission.

Collection and confidentiality of information. Requests for confidential treatment of information submitted to the Commission should be directed to the attention of the Secretary. Requests must conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Information submitted to or gathered by the Commission in conjunction with this proceeding under present section 303 of the Tariff Act will be subject to the new countervailing duty law provisions regarding access to information set forth in new title VII of the Tariff Act after January 1, 1980, if that law becomes effective. Those provisions relate to the collection and retention of information by the Commission and the maintenance of confidentiality or the disclosure of information. The provisions of section 777 of title VII will require the following:

(a) A record of all ex parte meetings between interested parties or persons providing factual information in connection with an investigation and the Commissioners, their staffs, or any person charged with making a final recommendation in an investigation;

(b) Disclosure of nonconfidential information or nonconfidential summaries of confidential information which is not in a form that can be associated with or used to identify the operations of a particular person;

(c) Preventing disclosure of confidential information unless the party submitting the information consents to the disclosure; and

(d) Limited disclosure of certain confidential information under protective order or by an order of the U.S. Customs Court.

Section 516A of the Tariff Act, as amended by the Trade Agreements Act, will require all information in the record before the Commission in the title VII investigation, whether confidential or nonconfidential, to become part of the record before the Customs Court in any review of a Commission determination. Section 771 provides definitions applicable to title VII.

These procedures are set forth pursuant to section 335 of the Tariff Act, which authorizes the Commission to adopt such reasonable procedures as are necessary to carry out its functions and duties.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: November 21, 1979

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

Terminate Inv. 303-TA-11: Institute Inv. 701-TA-1 (Final)
Terminate Inv. 303-TA-12: Institute Inv. 701-TA-2 (Final)

Notice of Termination and Reinstitution of Investigations under Section 303 of the Tariff Act in accordance with the Trade Agreements Act of 1979

AGENCY: United States International Trade Commission

ACTION: Termination of two countervailing duty investigations under section 303 of the Tariff Act of 1930 and reinstitution of those investigations under title VII of that act to determine whether with respect to the articles involved an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imported merchandise.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: The supervisory investigator assigned by the Commission to the particular investigation for which the information is sought. The assignments of supervisory investigators and their telephone numbers at the Commission are designated below.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, section 102(c), requires the Commission to conduct countervailing duty investigations in accordance with the provisions of title I of that act in cases where on January 1, 1980, the Commission is conducting an investigation under section 303 of the Tariff Act as to whether an industry in the United States is being, or is likely to be injured, or prevented from being established. Accordingly, the Commission hereby gives notice that, effective January 1, 1980, it is terminating the investigations under section 303 indicated in the first column below and is instituting the new investigations indicated in the second column

with respect to the products described in the third column pursuant to section 705(b) of the Tariff Act of 1930, as added by title I of the Trade Agreements Act of 1979. These new investigations will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457) and, particularly, Subpart C thereof, effective January 1, 1980.

Written submissions. Any person may submit to the Commission on or before the prehearing statement due date specified below for the relevant investigation a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Hearings. The Commission has scheduled a hearing in each investigation on the date specified below. A report containing preliminary findings of fact prepared by the Commission's professional staff will be made available to all interested persons prior to the hearing. Any person's prehearing statement must be filed on or before the indicated date. All parties that desire to appear at the hearing and make oral presentations must file prehearing statements. For further information consult the Commission's Rules of Practice and Procedure, Part 207, Subpart C (44 FR 76457), effective January 1, 1980.

PENDING COUNTERVAILING DUTY INVESTIGATIONS

Inv. No. before Jan. 1, 1980	Inv. No. after Jan. 1, 1980	Product/Country	Prehearing Report to Parties	Deadline for Prehearing Statements From Parties	Hearing Date	Hearing Location	Contact Person
303-TA-11	701-TA-1 (Final)	Leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, provided for in TSUS item 791.27/ India.	Jan. 14, 1980	Jan. 24, 1980	Feb. 4, 1980	ITC Bldg. Wash., D.C.	Vera Libeau 523-0368
303-TA-12	701-TA-2 (Final)	Pig iron, provided for in TSUS item 606.13/Brazil	Jan. 16,1980	Jan. 30, 1980	Feb. 6, 1980	ITC Bldg. Wash. DC	Daniel Leahy 523-1369

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: January 14, 1980

APPENDIX D

TREASURY DEPARTMENT'S NOTICES OF PRELIMINARY COUNTERVAILING DUTY DETERMINATION AND FINAL COUNTERVAILING DUTY DETERMINATION AS PUBLISHED IN THE FEDERAL REGISTER

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[1505-01-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM ARGENTINA, BRAZIL, COLOMBIA, INDIA, PHILIPPINES, THE REPUBLIC OF CHINA (TAIWAN), REPUBLIC OF KOREA, URUGUAY, MALAYSIA, MEXICO, PAKISTAN, SINGAPORE, AND THAILAND

Certification of Notices of Receipt of Countervailing Duty Petition and Initiation of Investigation and of Preliminary Countervailing Duty Determinations

Correction

In FR Doc. 78-28904 appearing on page 47340, in the issue for Friday, October 13, 1978, in the third column of page 47340, the third entry under "Textile yarn and threads" now reading "303.—" should have read "302.—"

On page 47341 in the third column the twelfth entry under "furnishings" now reading "361.209 (a)" should have read "361.20(a)".

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN FOOTWEAR FROM INDIA

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of India has not given benefits which are considered to be bounties or grants on the manufacture or exportation of certain footwear because the net amount of such benefits are deemed legally de minimis. A final determination will be made by March 10, 1979. Interested persons are invited to comment on this action.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On May 2, 1978, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 18807). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of India upon the manufacture, production, or exportation of certain footwear constitute the payment or bestowal of a bounty or grant, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice "certain footwear" includes footwear classifiable in items 700.05 through 700.85 inclusive, of the Tariff Schedules of the United States Annotated (except items 700.28, 700.51, 700.52, 700.53, 700.54, 700.60 and 700.8510). It also includes other leather articles cut or partly manufactured into forms or shapes suitable for conversion into footwear, classifiable in item 791.25 of the Tariff Schedules of the United States Annotated (TSUSA). Imports of articles classified under TSUSA item 791.25 are eligible for duty-free entry under the generalized system of preferences. In the event that it becomes necessary to refer this matter to the U.S. International Trade Commission (ITC) pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, an industry in the United States.

On the basis of an investigation conducted pursuant to section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it preliminarily has been determined that certain practices of the Government of India provided benefits to manufacturers, but that such benefits do not constitute bounties or grants within the meaning of section 303 of the Act. The benefits bestowed thereunder involve an aggregate amount which is considered to be de minimis.

These practices are:

(1) Export financing—The Government of India has provided information that short-term export financing is available through commercial banks at an interest rate of 11 percent for up to three months. Normal commercial rates in India vary between 12.5 and 16 percent for equivalent term notes. Although the Government has not supplied detailed information concerning export loans, it has stated that financing is available to small scale firms for domestic purposes on certain term loans at rates between 9.5 and 11 percent. Because, it argues, the preponderance of footwear production is accounted for by small scale firms, the financing terms available to firms on domestic shipments are generally equivalent to that granted on exports. The Government estimates that the maximum benefits that might accrue from preferential export financing would be limited to no more than 0.25 percent for any single firm, which is de minimis. However, before a final decision is made, more information will be required to determine the full extent of the benefits received under this program.

(2) Income tax deduction for overseas expenses—Indian footwear exporters are eligible to benefit from a program that provides for the deduction of overseas business expenses from taxable income. Under this program exporters are able to deduct up to 133 percent of certain limited business expenses from their taxable income. This program supersedes a program abolished April 1, 1978, which allowed a deduction of up to 150 percent of such expenses. Because the footwear industry in India basically consists of small-scale or cottage-type firms, few, if any, firms are believed to incur overseas business expenses. The Government estimates that the weighted-average benefit of this program for the industry in the aggregate is no more than 0.001 percent, which is clearly de minimis. More information will be required relative to this program before a final decision is made.

The following programs cited by petitioner do not on preliminary consideration constitute bounties or grants:

(1) Cash rebates upon export—Exporters of identified products are provided a cash rebate calculated as a percentage of the f.o.b. value of exported products. For products covered by this investigation the percentages vary from 5 to 15 percent. The Government of India claims that these rebates are compensation for indirect taxes paid on the exported product not otherwise refunded and, therefore, are not a "bounty" or "grant" under the law. The Government has provided information showing the incidence of indirect taxes directly related to the product category of leather sandals, which accounts for 85 percent of the exports to the United States of the merchandise under consideration. That category is entitled to "cash assistance" of 5 percent of the f.o.b. value of the product. The indirect taxes enumerated account for as much as 9.70 percent of the f.o.b. value of the product category "leather sandals". Thus, it seems clear that no excess rebate of allowable indirect taxes is provided. However, before a final determination is made, further information will be requested detailing the taxes intended to be covered by the rebate for the other categories of footwear included in this investigation.

(2) Import permits—Registered Indian exporters are granted permits to import goods used in the manufacture of their exported products up to a fixed percentage of the f.o.b. value of their exports. Although these import licenses appear to be negotiable, the

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ment, the agency has concluded that the comment closing date should be extended 60 days. The new comment closing date is January 12, 1979.

The principal author of this notice was Frederic W. Schwartz, Jr. of the office of Chief Counsel.

(Pub. L. 89-564, 80 Stat. 731; 23 U.S.C. 401 et seq., delegations at 49 CFR 1.50 and 49 CFR 501.8 (d).)

Issued: November 16, 1978.

CHARLES F. LIVINGSTON,
Acting Associate Administrator,
Traffic Safety Programs.

[FR Doc. 78-32740 Filed 11-22-78; 8:45 am]

[4910-59-M]

[Docket No. IP78-11; Notice 1]

PACCAR, INC.

Receipt of Petition for Determination of Inconsequential Noncompliance

Paccar Inc. of Bellevue, Wash., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.121 Motor Vehicle Safety Standard No. 121, Air Brake Systems. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.1.2.1 of standard No. 121 requires the combined volume of all service reservoirs (from which air is delivered to the brake chambers) and supply reservoirs to be "at least 12 times the combined volume of all service brake chambers at maximum travel of the piston or diaphragms." Paccar's Kenworth Truck Division has manufactured approximately 2,000 model W900 and C500 vehicles in which the air reservoir volume is only 11.82 times the total brake actuation chamber volume, or 1.5 percent less than the minimum required by the standard. Paccar argues that the noncompliance is inconsequential because it "has no effect on the brake performance of the vehicles," and that there has been "no case where insufficient air reservoir capacity has been an issue in the performance." It also argues that "neither NHTSA nor any other agency has presented evidence to substantiate that 12 times total chamber volume is the 'correct' or minimum volume for airbrake service reservoirs." If brake hose would be included in total system volume "the total volume would reach the 12.0 figure." Finally, a recall would require Kenworth to add an additional reservoir to each truck with "no improvement of the performance or safety of the vehicle." NHTSA's investigative file in this matter is CIR 1886.

Interested persons are invited to submit written data, views, and arguments on the petition of Paccar Inc. described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: December 26, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 15, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator
for Rulemaking.

[FR Doc. 78-32711 Filed 11-22-78; 8:45 am]

[4910-59-M]

[Docket No. IP78-10; Notice 1]

PINETREE SERVICE CORP.

Receipt of Petition for Determination of Inconsequential Noncompliance

Pinetree Service Corp. of Long Beach, Calif., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.222 Motor Vehicle Safety Standard No. 222, School Bus Passenger Seating and Crash Protection. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Pinetree is an alterer of motor vehicles, modifying vans, produced by Dodge Division of Chrysler Corp., to schoolbuses. Paragraph S5.3.1.1 of Standard No. 222 establishes head impact protection zones which are the spaces in front of each schoolbus passenger seat that are not occupied by bus sidewall, window, or door structures, and which, in relation to that seat and its seating reference point, are enclosed by certain specified planes. One of these horizontal planes is 40 inches above the seating reference point. On 60 vehicles converted by Pinetree the planes measure only 34 inches (outboard) and 36 inches (inboard) above the reference point. The effect is that impact absorbant padding would have to be added to correct the noncompliance.

Pinetree argues that the noncompliance is inconsequential because it operates the buses itself under contract with school districts. All buses are equipped with seatbelts, there are signs posted in the buses requiring all passengers and the driver to use seatbelts, and company rules and contract require the belts to be used while the vehicles are in motion. The petitioner believes "the use of seatbelts modifies this impact zone providing they are used and enforced." The agency's investigative file in this matter is CIR 1959.

Interested persons are invited to submit written data, views, and arguments on the petition of Pinetree Service Corp. described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: December 26, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 15, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator
for Rulemaking.

[FR Doc. 78-32712 Filed 11-22-78; 8:45 am]

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invasion of the privacy of those persons who utilize the services of bank trust departments. As the reports do not identify any particular trust accounts, it is not likely that any such invasion of privacy will occur. In addition, only a limited amount of information is being made available to the public. The report only contains data on those accounts over which the trust department has sole discretion.

One comment raised the possibility that trust departments would be forced to structure investment decisions in accordance with the public's uninformed perception of their performance. The Board of Governors of the Federal Reserve and the Office of the Comptroller of the Currency have made these reports available to the public in the past and there has been no evidence of disruption of trust department activities in those banks where reports were disclosed. There is little or no reason, therefore, to anticipate such a result.

After having fully considered the public comments, the Board of Directors of the FDIC has decided to proceed with the amendment of Part 309 as set forth below. It is the opinion of the FDIC that no harm will result to insured nonmember banks as the result of public disclosure of these reports. As the information is not viewed as confidential and there is a public demand for it, disclosure is considered appropriate. Disclosure can be said to be especially appropriate in view of the current practice of disclosing to the public bank reports of condition and reports of income. (12 CFR 309.4(b)(1)).

In consideration of the foregoing, the Board of Directors of the FDIC is amending 12 CFR 309.4(b)(1) by adding at the end thereof the following new subdivision (v).

§ 309.4 Information made available for public inspection.

* * * * *

(b) Information made available at the Corporation's discretion.

(1) * * *

(v) Annual Trust Department Report of Assets [**] for commercial and mutual savings banks.

By order of the Board of Directors of the Federal Deposit Insurance Corporation this 22nd day of October, 1979.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-33085 Filed 10-25-79; 8:45 am]

BILLING CODE 6714-01-M

[**] Trust Department report number 8020/33.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 159

[T.D. 275]

Countervailing Duties—Certain Footwear From India

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination and Suspension of Liquidation.

SUMMARY: This notice is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of India has given benefits considered to be bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of leather shoes and uppers. It has further been determined that all other non-rubber footwear subject to this investigation has not received benefits from the Government of India considered to be bounties or grants and therefore no countervailing duties will be imposed on those products.

Certain uppers entering the United States receive duty-free treatment under the Generalized System of Preferences. Before countervailing duties will be imposed on those duty-free uppers, the U.S. International Trade Commission will investigate whether a U.S. industry is being or is likely to be injured by reason of imports of Indian shoe uppers benefiting from such bounties or grants.

EFFECTIVE DATE: October 26, 1979.

FOR FURTHER INFORMATION CONTACT: Leon McNeil, Technical Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (566-5492).

SUPPLEMENTARY INFORMATION: On November 24, 1978, a negative "Preliminary Countervailing Duty Determination" was published in this case in the Federal Register (43 FR 55028). That notice stated that it had been preliminarily determined that benefits which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1301) (hereinafter referred to as "the Act") had not been bestowed by the Government of India (GOI) to manufacturers/exporters of certain footwear.

For purposes of this notice, "certain footwear" includes footwear classifiable in item numbers 700.05 through 700.85, inclusive, of the Tariff Schedules of the United States Annotated (TSUSA) (except items 700.28, 700.51, 700.52, 700.53, 700.54, 700.60 and 700.8510). It also includes other leather articles cut or partly manufactured into forms or shapes suitable for conversion into footwear, previously classified under TSUSA item number 791.25. However, in March 1979, TSUS number 791.25 was abolished and replaced by two new tariff numbers, 791.24 and 791.26. Certain goods entering under item number 791.26 are eligible for duty-free entry under the Generalized Systems of Preferences (GSP) and therefore an injury test woud be required prior to the application of countervailing duties on these duty-free goods.

In the preliminary negative determiniation, the following programs were found not to constitute bounties or grants within the meaning of section 303 of the Act, which findings are hereby made final:

(1) *Import permits.* Indian exporters involved in this investigation are eligible to receive automatically permits to import components and raw materials used to manufacture their products, up to a fixed percentage of the f.o.b. value of their exports. These permits are negotiable and can also be transferred to "supporting" manufacturers. In the preliminary determination it was stated that to the extent the permits were transferred for cash, their receipt might be considered a "bounty or grant". At that time it did not appear that the permits are in fact sold or transferred by Indian footwear manufacturers and information supplied by the GOI since the preliminary determination has corroborated that fact.

(2) *Customs duty drawback and excise tax rebates.* The preliminary determination stated that the drawback and excise-tax rebates provided are limited to the amounts actually paid by the manufacturers of these products, and that no drawback or rebates are allowed on machinery or equipment. Non-excessive Customs duty drawbacks and excise tax rebates upon exports are not considered to be bounties or grants if they are limited to the amounts actually paid on the exported product and raw materials or components incorporated into the exported final product, as in this case.

(3) *Export insurance provided by the Export Credit and Guarantee Corporation (ECGC).* The ECGC underwrites political and commercial risks not insurable by commercial carriers. The corporation is owned by the Indian Government, but charges premiums for its policies. The availability of this insurance is determined not to be a bounty or grant because the ECGC covers its claims

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from operating income, and, therefore appears to be actuarily sound.

A number of other programs were preliminarily determined as not applicable to, or not utilized by, Indian footwear manufacturers subject to this investigation, which findings are hereby made final:

(1) *Tax credit certificates.* It was alleged that exporters were entitled to receive certificates equal to 15 percent of the export value of merchandise, which would be used to offset income or business taxes owed. This program was proposed but never adopted by the Indian Government.

(2) *Grants for export promotion.* The Market Development Fund provides grants to exporters to cover a variety of trade promotion activities. The Fund was not utilized by footwear exporters during the period investigated.

(3) *Export financing through The Industrial Development Bank.* Loans under this program are limited to engineering goods and are therefore not applicable to manufacturers or exporters of the goods subject to this investigation.

(4) *Location in the Kandla Free Trade Zone.* Firms located in this area benefit from a number of import duty exemptions, foreign exchange concessions and other financial assistance from the Indian Government. There are no footwear producers or exporters in the Kandla Free Trade Zone.

(5) *Reimbursement of shipping charges.* The Government of India provides for the partial reimbursement of shipping charges on certain products shipped by air. However, since virtually all Indian footwear exports are shipped by sea, footwear exporters do not qualify for this program.

The Notice of the preliminary determination stated that before a final determination would be made in the proceeding, consideration would be given to any relevant data, views, or arguments submitted in writing and received by the Commissioner of Customs. Based upon an analysis of the information submitted subsequent to the preliminary determination, no change in the Treasury Department's position with respect to these programs is warranted.

One additional program was identified in the preliminary determination as not constituting a bounty or grant. Additional information has since been collected from the Government of India with respect to that program. The results of the analysis of that information are described below.

Cash rebates upon export. Exporters of certain identified products are provided a cash rebate calculated as a percentage of the f.o.b. value of the exported product which is intended to offset indirect taxes borne on the manufacture of the exported goods. For products covered by this investigation, the percentages vary from 5 to 15 percent. The preliminary determination was based on data submitted with respect to the indirect tax incidence on products receiving a 5 percent cash rebate. It was determined that indirect taxes assessed on the exported product or on items physically incorporated into the product, actually exceeded the cash rebate. These products accounted for approximately 85 percent of total Indian exports to the United States of the products covered by the investigation.

It was also indicated in that Notice that additional information would be collected with respect to products receiving 12.5 percent (uppers) and 15 percent (leather shoes) cash rebates, even though those products constitute only a small portion of Indian non-rubber footwear exports.

The Government of India supplied a breakdown of all the various indirect taxes which are allegedly borne by Indian leather shoes and uppers, but not rebated on exports. While all the indirect taxes listed are assessed on items physically incorporated into the exported product, and therefore allowable as offsets to the cash rebate, the Government of India was unable to supply documentation that all of the taxes listed were, in fact, incurred in the amounts alleged. To the extent that adequate documentation is not available to Treasury, such offsets to the export payment cannot be granted. Having reviewed the data submitted and identified the value of allowable indirect taxes, it has been determined that with respect to items receiving a 12.5 percent rebate on export (uppers) the cash rebate exceeds the allowable indirect taxes by 0.93 percent. With respect to those products receiving a 15 percent cash rebate (leather shoes), the cash rebate exceeds the allowable indirect taxes by 4.16 percent. Therefore, for the purposes of this final determination, this program operates to bestow countervailable benefits on Indian exports of these two products. However, the GOI has indicated that appropriate documentation will be submitted which will show that there are additional allowable taxes which would effectively eliminate the bounty or grant found on these two products. When submitted, this data will be reviewed.

Two remaining programs were identified in the preliminary determination as having been utilized by manufacturers/exporters of Indian footwear, but the benefits bestowed were preliminarily determined to be *de minimis* in size, and therefore not bounties or grants. The two programs are:

(1) Export financing for up to 90 days by the Government of India at rates less than those which would otherwise be commercially available; and

(2) A deduction from a firm's taxable income up to 133 percent of certain overseas business expenses incurred by the firm.

Additional company specific data was collected subsequent to the preliminary determination in order to calculate more accurately the *ad valorem* benefits received under each program. Based upon this additional information, the *ad valorem* benefit received under the export financing program has been determined to be 0.03 percent, and under the overseas business expense deduction program to be 0.05 percent.

Therefore, on the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been determined that benefits are provided by the GOI to manufacturers/exporters of footwear from India, but that, with respect to all products except those receiving 12.5 percent or 15 percent cash rebates on exports, the aggregate amount of the benefits are 0.08 percent, an amount considered *de minimis*. With respect to leather shoes, which receive a 15 percent cash rebate, the aggregate benefits are 4.24 percent *ad valorem*, and with respect to leather uppers, which receive a 12.5 percent cash rebate, the aggregate benefits are 1.01 percent *ad valorem*. The aggregate benefits bestowed on leather shoes and uppers represent the sum of the benefits received under the export cash rebate program, the preferential financing program and the overseas business expense deduction program.

Therefore, with regard to leather shoes and uppers subject to this determination, notice is hereby given that effective on or after October 26, 1979, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of leather shoes and uppers, imported directly or indirectly from India which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent it can be established to the satisfaction of the Commissioner of Customs that imports of leather shoes and uppers from India are benefiting from a bounty or grant smaller than the amount which

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otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of leather shoes and uppers from India.

As stated above, imports of certain leather shoe uppers included in TSUSA item number 791.26 from India are eligible to enter the U.S. duty-free pursuant to the GSP. In accordance with section 303(a)(2) of the Act (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such subsidized article or merchandise into the United States.

Accordingly, the International Trade Commission is being advised of this determination and effective on or after October 26, 1979, upon the entry, or withdrawal from warehouse, for consumption of those leather uppers which are duty-free pursuant to the GSP, liquidation will be suspended until further order or publication after determination of the Commission, whichever comes first.

§ 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "India", the words "leather shoes and uppers", in the column headed "Commodity"; the number of this Treasury Decision in the column headed "Treasury Decision"; and the words "Bounty declared-rate" in the column headed "Action".

(R.S. 251, as amended, section 303, as amended, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624)).

This final determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 154.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,
Acting General Counsel of the Treasury.
October 19, 1979.

(FR Doc. 79-33127 Filed 10-25-79; 8:45 am)
BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Sponsor Post Office Box Number

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to correct the post office box number for Carl S. Akey, Inc., sponsor of a new animal drug application.

EFFECTIVE DATE: October 26, 1979.

FOR FURTHER INFORMATION CONTACT: John Borders, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600, *Names, addresses, and drug labeler codes of sponsors of approved applications* in paragraph (c)(1) for "Carl S. Akey, Inc." and in paragraph (c)(2) for "017790" by changing the post office box number "258" to read "807."

Effective date: October 26, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 18, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

(FR Doc. 79-33719 Filed 10-25-79; 8:45 am)
BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Haloxon Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) submitted by Burroughs Wellcome Co., providing for revised labeling provisions for haloxon boluses used as an anthelmintic in cattle.

EFFECTIVE DATE: October 26, 1979.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HVF-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709, filed a supplemental NADA (92-483V) providing revised labeling which would eliminate animal weight gaps in the dosage table for haloxon boluses. The regulation is also amended to include the statement "Give one bolus per approximately 500 pounds body weight." This type of statement has always appeared on the product's labeling but was inadvertently omitted from § 520.1120b *Haloxon boluses.*

Under the proposed BVM Supplemental Approval Policy (December 23, 1977, 42 FR 64367), this is a Category II approval. Approval of this supplemental application poses no increased human risk from exposure to residues of the new animal drug, because the actual dose provided for does not differ significantly from that which is provided for by the present label. Accordingly, this approval did not require a reevaluation of the safety and effectiveness data in the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.1120b by

APPENDIX E

U.S. INTERNATIONAL TRADE COMMISSION INVESTIGATIONS CONCERNING FOOTWEAR

U.S. International Trade Commission Investigations Concerning Footwear

On January 15, 1969, the Commission issued a report on an investigation (No. 332-56) instituted at the request of the President under section 332 of the Tariff Act of 1930, in which it gathered information on the economic condition of the domestic nonrubber footwear industry, and the effects of imports upon the industry. 1/

In December 1969, the Commission issued a report on an investigation (No. 332-62) supplementing the previous section 332 investigation. This investigation was instituted by the Commission on its own motion to provide a current assessment of trends in domestic production and imports. 2/

On January 15, 1971, the Commission reported to the President on an investigation (No. TEA-I-18) conducted under section 301(b)(1) of the Trade Expansion Act of 1962 (TEA) at the request of the President. The Commission was equally divided on the question of injury to the industry and the President took no action as a result of the Commission's report. 3/

The Commission reported to the President on February 20, 1976, the results of its industry investigation made under section 201(b)(1) of the Trade Act of 1974. The investigation was instituted on September 17, 1975, following receipt of a petition for import relief filed by the American Footwear Industries Association, the Boot and Shoe Workers' Union, and the

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1/ Nonrubber Footwear: Report to the President on Investigation No. 332-56 . . ., TC Publication 276, 1969.
2/ Nonrubber Footwear: Report on Investigation No. 332-62 . . ., TC Publication 307, 1969.
3/ Nonrubber Footwear: Report to the President on Investigation No. TEA-I-18 . . ., TC Publication 359, 1971.

United Shoe Workers of America. 1/ The Commission found unanimously that increased imports were a substantial cause of serious injury to the domestic industry; three Commissioners recommended tariff increases, two recommended tariff-rate quotas, and one recommended adjustment assistance as the appropriate relief to remedy the injury.

On April 16, 1976, President Ford determined that adjustment assistance was the most effective remedy for the injury to the U.S. footwear industry found by the Commission. The President directed the Secretaries of Commerce and Labor to give expeditious consideration to any petitions for adjustment assistance and directed the Special Representative for Trade Negotiations to monitor U.S. footwear trade.

On February 3, 1977, the Commission reported to the President the results of its second investigation under section 201(b)(1) of the Trade Act of 1974. 2/ The investigation was instituted on October 5, 1976, following receipt, on September 28, 1976, of a resolution of the Senate Committee on Finance directing the Commission to conduct such an investigation and advising that it was the sense of the Committee that there was "good cause" within the meaning of section 201(e) of the Trade Act to reinvestigate the same subject matter within one year of reporting to the President on the results of a like investigation. The Commission's determination that the domestic footwear industry was seriously injured by imports was unanimous and recommended that tariff-rate quotas be imposed to relieve the injury.

On April 1, 1977, President Carter rejected ITC's recommendation and determined that a major new Federal Trade Adjustment Assistance Program was the most effective remedy for the injury to the U.S. footwear industry found

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1/ Footwear: Report to the President on Investigation No. TA-201-7 . . ., USITC Publication 758, 1976.

2/ Footwear: Report to the President on Investigation No. TA-201-18 . . ., USITC Publication 799, 1977.

by the Commission; the President also directed that Orderly Marketing Agreements 1/ with Korea and Taiwan which limit exports from those countries to the United States be negotiated; they became effective in June 1977.

The Commission also conducted 155 footwear firms and worker "adjustment assistance" investigations under sections 301(c)(1) (firms) and 301(c)(2) (workers) of the TEA between 1963 and April 1975, when the Trade Act transferred such authority to the Departments of Commerce and Labor, respectively. Of these, 128 were worker cases, and 27 were firm cases. The Commission made affirmative findings in 23 of the worker cases and 7 of the firm cases, and was equally divided in 26 of the worker cases and 6 of the firm cases.

The Commission has conducted two investigations on footwear under the Antidumping Act, 1921, as amended. The first in 1966, on leather work shoes from Czechoslavakia, resulted in a unanimous negative determination. 2/ The second in 1975, on welt work shoes from Romania, resulted in an negative determination. 3/

In July 1976, the Commission conducted the first countervailing duty investigation under section 303(b) of the Tariff Act of 1930, as amended, with respect to footwear known as zoris, imported from Taiwan. 4/ Zoris enter under TSUS item 700.54 and accorded duty-free treatment under section 501 of the Trade Act of 1974. On the basis of its investigation, the Commission unanimously determined no injury.

1/ Federal Register, Vol. 92, No. 122, June 24, 1977.

2/ Leather Work Shoes from Czechslovakia: Determination of No Injury or Likelihood Thereof in Investigation No. AA1921-48 . . ., TC Publication 185, 1966.

3/ Welt Work Shoes From Romania: Determination of No Injury or Likelihood Thereof in Investigation No. AA1921-44 . . ., USITC Publication 731, 1975.

4/ Certain Zoris From the Republic of China (Taiwan): Determination of No Injury or Likelihood Thereof or Prevention of Establishment in Investigation No. 303-TA-1 . . ., USITC Publication 787, 1976.

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